

immediately surface.⁹ City and developers cannot fault BCLC because it does not have evidence answering these and other questions related to the cumulative impacts resulting from construction and operation of both Gosford and Panama. “To conclude otherwise would place the burden of producing relevant environmental data on the public rather than the agency and would allow the agency to avoid an attack on the adequacy of the information contained in the report simply by excluding such information.” (*Farm Bureau, supra*, 221 Cal.App.3d 692, 724.)

On remand, each EIR must analyze the cumulative impacts resulting from construction and operation of the proposed shopping center in conjunction with all other past, present or reasonably foreseeable retail projects that are or will be located within the proposed project’s market area. This includes, but is not limited to, analysis of the combined adverse impacts resulting from construction and operation of Gosford and Panama.¹⁰

⁹ Specific questions such as the following immediately come to mind: How will traffic patterns be affected on the shared roadways? Will combined traffic cause an increase in mobile emissions that adversely affects sensitive receptors? Will the presence of two shopping centers containing large value-oriented retailers result in an overall increase in shoppers who may come from outlying areas because of the abundance of retail opportunities in a relatively small area? In other words, is there a synergy whereby one and one equals more than two? Alternatively, will Gosford and Panama draw customers from each other, thereby increasing the potential that one of the shopping centers will not be successful and could deteriorate? Does addition of multiple new shopping facilities stimulate growth in the surrounding area and if so, what type?

¹⁰ This conclusion obviates any need to address BCLC’s other claims concerning the sufficiency of the cumulative impacts analyses. However, we mention that when the City assesses the combined effects that the two shopping centers will have on ambient air quality, it must apply the principles we explained in *Farm Bureau, supra*, 221 Cal.App.3d 692. The magnitude of the current air quality problems in the San Joaquin Valley cannot be used to trivialize the cumulative contributions of the shopping centers and the scope of the analysis cannot be artificially limited to a restricted portion of the air basin. (*Id.* at pp. 718, 723.)

V. Failure to Correlate Adverse Air Quality Impacts to Resulting Adverse Health Impacts

The Gosford EIR concluded that Gosford would cause significant unavoidable direct adverse impacts to regional air quality from construction and operation. The direct adverse air quality impacts are derived "primarily from automobile emissions during operation and from architectural coatings and construction equipment during construction phase. No feasible mitigation measures are available that would reduce impacts to less than significant levels." Furthermore, Gosford "could potentially result in cumulatively considerable impacts to regional air quality from construction and operation."

Similarly, the Panama EIR concluded that Panama "may result in an overall increase in the local and regional pollutant load due to direct impacts from vehicle emissions and indirect impacts from electricity and natural gas consumption. This impact is considered significant and unavoidable for ROG and NOx." The Panama EIR reached a different conclusion than the Gosford EIR with respect to cumulative impacts, determining that a "less than significant" impact would occur in this regard.

BCLC contends that both EIR's omitted relevant information when they failed to correlate the identified adverse air quality impacts to resultant adverse health effects. We agree.

Guidelines section 15126.2, subdivision (a) requires an EIR to discuss, inter alia, "health and safety problems caused by the physical changes" that the proposed project will precipitate. Both of the EIR's concluded that the projects would have significant and unavoidable adverse impacts on air quality. It is well known that air pollution adversely affects human respiratory health. (See, e.g., Bustillo, *Smog Harms Children's Lungs for Life, Study Finds*, L.A. Times (Sept. 9, 2004).) Emergency rooms crowded with wheezing sufferers are sad but common sights in the San Joaquin Valley and elsewhere. Air quality indexes are published daily in local newspapers, schools monitor air quality and restrict outdoor play when it is especially poor and the public is warned to limit their activities on days when air quality is particularly bad. Yet, neither EIR acknowledges the

health consequences that necessarily result from the identified adverse air quality impacts. Buried in the description of some of the various substances that make up the soup known as “air pollution” are brief references to respiratory illnesses. However, there is no acknowledgement or analysis of the well-known connection between reduction in air quality and increases in specific respiratory conditions and illnesses. After reading the EIR’s, the public would have no idea of the health consequences that result when more pollutants are added to a nonattainment basin. On remand, the health impacts resulting from the adverse air quality impacts must be identified and analyzed in the new EIR’s.

VI. Prejudice

“When the informational requirements of CEQA are not complied with, an agency has failed to proceed in ‘a manner required by law.’” (*Peninsula, supra*, 87 Cal.App.4th at p. 118.) If the deficiencies in an EIR “preclude[] informed decisionmaking and public participation, the goals of CEQA are thwarted and a prejudicial abuse of discretion has occurred.” (*Id.* at p. 128.)

An EIR’s role “as an environmental ‘alarm bell’ whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached the ecological points of no return” (*County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 810) is equally vital whether one is protecting our coastline and forests or preserving our inland neighborhoods as viable communities. For many of us, adverse environmental impacts such as reduction of endangered species habitat are regrettable but largely abstract harms. In contrast, deterioration of our local communities is a very real problem that directly impacts the quality of our daily life. When our morning commutes are marred by the sight of numerous vacant or half-vacant strip malls adorned with graffiti and weeds, when we hesitate to move into an established neighborhood because of the absence of close and convenient shopping and when it hurts to take a deep breath on hot August afternoons because of the poor air quality, the importance of thorough

environmental analysis and complete disclosure before new projects are approved is all too evident.

In this case, City's failure to assess whether the shopping centers, individually and cumulatively, will indirectly cause urban decay, to evaluate the cumulative impacts of both shopping centers and to correlate the adverse air quality impacts to resulting adverse health consequences, cannot be dismissed as harmless or insignificant defects. As a result of these omissions, meaningful assessment of the true scope of numerous potentially serious adverse environmental effects was thwarted. No discrete or severable aspects of the projects are unaffected by the omitted analyses; the defects relate to the shopping centers in their entirety, not just to one specific retailer. These deficiencies precluded informed public participation and decision making. Therefore, certification of the EIR's was a prejudicial abuse of discretion. (*Peninsula, supra*, 87 Cal.App.4th at p. 128.)

The Guidelines unequivocally require the lead agency to certify a legally adequate final EIR prior to deciding whether or not to approve or carry out a contested project. (Guidelines, §§ 15089 to 15092.) "[T]he ultimate decision of whether to approve a project, be that decision right or wrong, is a nullity if based upon an EIR that does not provide the decision-makers, and the public, with the information about the project that is required by CEQA." (*Santiago County Water Dist. v. County of Orange* (1981) 118 Cal.App.3d 818, 829.) Thus, the project approvals and associated land use entitlements also must be voided. (See, e.g., *Eel River, supra*, 108 Cal.App.4th at p. 882; *Raptor, supra*, 27 Cal.App.4th at pp. 742-743.)

VII. Additional Defects in the EIR's*

The defects and omissions identified in this portion of the opinion also must be corrected in the new EIR's.

A. Finding that Gosford will not Obstruct Implementation of the Air Quality Attainment Plan (Gosford EIR)

The Gosford EIR states: “[T]he California CAA requires non-attainment districts with severe air quality problems to provide for a five percent reduction in non-attainment emissions per year. The SJVAPCD prepared an Air Quality Attainment Plan ... in compliance with the requirements of the Act.” The Gosford EIR concluded that Gosford would not conflict with or obstruct implementation of the Air Quality Attainment Plan because it “recognized growth of the population and economy within the air basin.... [Gosford] can be viewed as growth that was anticipated by the [Air Quality Plan].” The SJVAPCD commented, in relevant part, “[t]his project will make it more difficult to meet mandated emission reductions and air quality standards.” The response to this letter acknowledges that “the proposed project will generate significant operational air quality impacts due to emissions that would be generated by vehicular trips to the site.” However, it did not respond to SJVAPCD’s concern that construction and operation of Gosford will make it more difficult to meet mandated air quality standards.

BCLC challenges the finding that Gosford will not conflict with or obstruct implementation of the Air Quality Attainment Plan, arguing that this finding is unsupported and is logically inconsistent with the conclusion that Gosford has significant and unavoidable direct and cumulative adverse air quality impacts. We agree; the two findings are inconsistent on their face.

* See footnote, *ante*, page 1.

Under the chain of logic advanced in the Gosford EIR, virtually no new projects would impair the fulfillment of the Air Quality Attainment Plan despite serious adverse air quality impacts because such projects almost always could all be characterized by the applicant as “anticipated growth.” The inherent tension between growth on the one hand and satisfaction of mandates to reduce emissions on the other should have been recognized and addressed in this section of the EIR. At a minimum, the Gosford EIR should have addressed this point in its response to SJVAPCD’s comment letter. A good faith response should have acknowledged and grappled with SJVAPCD’s assertion that Gosford will make it more difficult to meet mandated standards, which is another way of stating that it would make it harder to fulfill the Air Quality Attainment Plan. In this respect, the Gosford EIR “failed to acknowledge the opinions of responsible agencies and experts who cast substantial doubt on the adequacy of the EIR’s analysis of this subject.” (*Berkeley, supra*, Cal.App.4th at p. 1371.) We agree with BCLC that CEQA required the City to “take a hard look at [SJVAPCD’s opinion] and supply the analytic framework for ignoring it.”

B. Railroad Spur (Gosford EIR)

As part of the traffic analysis, the Gosford EIR considered whether Gosford would substantially increase roadway hazards due to a design feature or incompatible uses. In relevant part, the Gosford EIR states, “[a] railroad spur crossing along Pacheco Road and in the proposed parking lot may be constructed at a future time. This crossing would not have a significant impact on traffic in the area.”

On June 28, 2002, the Resource Management Agency submitted a letter stating, in relevant part: “Issue XV Transportation and Traffic (d) states that a traffic study will be done to analyze the traffic flow around the project site. No mention is made of the future rail spur that is part of the project. Approval from the Public Utilities Commission is required for this aspect of the plan. This would be the second railroad crossing of

Pacheco in less than a half-mile, and a risk study may be necessary to assess the impacts from this.” This letter preceded the public review period for the Gosford draft EIR.

BCLC argues that the Gosford EIR’s conclusion respecting the railroad spur crossing is unsupported and lacks proper analysis and explanation. We agree. The Gosford EIR does not mention the important fact that the possible railroad spur crossing will be the second railroad crossing of Pacheco in less than half of a mile. It also did not support its conclusion that the railroad spur will not adversely affect traffic conditions with any analysis or explanation. This is insufficient. As we explained in *Irritated Residents, supra*, 107 Cal.App.4th 1383, “‘The EIR must contain facts and analysis, not just the bare conclusions of the agency.’ [Citation.] ‘An EIR must include detail sufficient to enable those who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project.’” (*Id.* at p. 1390.) The treatment of the proposed rail spur does not satisfy these information obligations.

C. Kit Fox (Panama EIR)

i. Failure to Consult

Guidelines section 15086 requires the lead agency to “consult with and request comments on the draft EIR” from numerous entities, including “[a]ny ... state, federal, and local agencies which have jurisdiction by law with respect to the project or which exercise authority over resources which may be affected by the project.” (Guidelines, § 15086, subd. (a)(3).) The San Joaquin Kit Fox (kit fox) is listed as endangered under the federal Endangered Species Act of 1973 and as threatened under the California Endangered Species Act. (16 U.S.C. §§ 1531 et seq.; Fish & G. Code, §§ 2050 et seq.) It is undisputed that the United States Fish and Wildlife Service (USFWS) exercises jurisdiction over resources that are affected by Panama, including the kit fox. It is also undisputed that the City did not consult with USFWS about Panama or request comments on the Panama draft EIR.

City and P99 argue that failure to notify and consult with USFWS was excused because the City and USFWS entered into an agreement in 1990, the Metropolitan Bakersfield Habitat Conservation Plan (MBHCP), that obviated any requirement to consult with USFWS on specific projects. We reject this argument as unsubstantiated because the MBHCP is not part of the administrative record and we cannot assess the provisions of this agreement. Although the MBHCP was one of many documents the Panama EIR incorporated by reference, a copy of the MBHCP was not appended to the Panama EIR. A copy of the MBHCP was not before the City Council when it certified the Panama EIR. The trial court denied a request to take judicial notice of excerpted portions of the MBHCP and this evidentiary decision was not appealed. No party has asked this court to take judicial notice of the MBHCP.

On this limited record, we must agree with BCLC that the City erred by failing to “consult with and request comments” from the USFWS in compliance with subdivision (a)(3) of Guidelines section 15086. Although the Panama EIR states that “the Project is subject to [MBHCP],” it does not state that the MBHCP supplants or affects the rights and responsibilities of USFWS or California Department of Fish and Game with respect to the Panama site. We express no opinion on the question whether compliance with this subdivision legally can be excused by prior agreement because the issue has not been properly presented with an adequate record.

ii. Mitigation

The initial study indicated that the Panama site could be kit fox habitat and it recommended further analysis to determine whether Panama could adversely impact this protected species. The City retained a certified wildlife biologist who conducted a clearance survey on the Panama site. The biologist found several active kit fox dens and observed three kit fox on the site: an adult and two juveniles. He concluded that Panama could adversely impact kit fox and he recommended a series of mitigation measures. The Panama EIR exclusively references mitigation pursuant to the terms of the MBHCP. It

concluded that, as mitigated, Panama's impact on kit fox would be less than significant. The mitigation measures recommended in the Panama EIR do not track the measures recommended by the biologist. There is no explanation for the differences or discussion why some of the biologist's mitigation measures were rejected. For example, the biologist suggested the following mitigation measure that is not mentioned in the Panama EIR: "[T]he Endangered Species Recovery Program, California State University, Stanislaus, be encouraged to trap and collar the foxes as an aid in finding the foxes in the future."

BCLC contends that the City failed to adequately analyze and mitigate kit fox impacts and it challenges the EIR's conclusion that, as mitigated, kit fox impacts will be insignificant. Once again, we agree. Guidelines section 15126.4 requires an EIR to "describe feasible measures which could minimize significant adverse impacts." (Guidelines, § 15126.4, subd. (a)(1).) "Where several measures are available to mitigate an impact, each should be discussed and the basis for selecting a particular measure should be identified." (Guidelines, § 15126.4, subd. (a)(1)(B).) The Panama EIR does not discuss all of the mitigation measures suggested by the biologist or explain why mitigation measures other than those referenced in the MBHCP were rejected. The record does not support the Panama EIR's conclusion that the limited mitigation measures identified in the EIR will mitigate kit fox impacts to insignificance.

We reject as unsubstantiated City and P99's assertion that it was only required to discuss mitigation measures contained in the MBHCP. As previously discussed, the MBHCP is not part of the administrative record.

Accordingly, based on this limited record, we conclude that the Panama EIR failed to adequately analyze and mitigate kit fox impacts. We express no opinion on the question whether mitigation solely pursuant to the MBHCP can be legally sufficient because the issue has not been properly presented with an adequate record.

VIII. Severance

We have found numerous grounds of CEQA noncompliance and we agree with BCLC that these errors compel decertification of the EIR's and voiding of the contested project approvals and associated land use entitlements. As previously explained, the defects in the EIR's apply to the entirety of the contested projects, not a single retailer or a severable facet of the shopping centers. We also have rejected C & C's contention that BCLC's single focus was to stop the Supercenter component of the shopping centers.

The narrow remedy issued by the trial court pursuant to section 21168.9, subdivision (b) is premised on the erroneous conclusion that the sole defect in the EIR's was the failure to study urban decay. Since this determination has been rejected, the trial court's associated finding regarding severability pursuant to section 21168.9, subdivision (b) necessarily falls as well. Neither City nor developers argued that even if there are multiple insufficiencies in the EIR's and even if these insufficiencies are caused by the entirety of the projects, we should still leave the project approvals and associated land use entitlements intact.

IX. Rejected Challenges

BCLC has raised additional challenges to the sufficiency of the EIR's, arguing that the air quality and traffic analyses are deficient in various respects and it contends that preparation of a health risk assessment after expiration of the comment period necessitated recirculation of the Panama EIR. We have considered and rejected all of these additional contentions because they lack factual and legal merit.

DISPOSITION

The judgments are reversed and the actions are remanded to the Superior Court of Kern County. BCLC is awarded its statutory costs in both actions. C & C is to pay the

entirety of the cost award in the Gosford action; P99 is to pay the entirety of the cost award in the Panama action. (Cal. Rules of Court, rule 27(a)(4).) BCLC's request for judicial notice is granted.

Upon remand, the superior court is directed as follows in both actions:

(1) To issue new peremptory writs of mandate ordering the City to void its certification of the EIR's and findings of overriding considerations and to void its approval of the projects and associated zoning changes, general plan amendments and other related land use entitlements;

(2) To issue orders, after notice and hearing, that set a date by which the City must certify new EIR's in accordance with CEQA standards and procedures, including provisions for public comment, and make any findings that CEQA may require. These orders are to require the City, after full CEQA compliance is effected, to determine upon further consideration and in accordance with all applicable laws, whether or not to reapprove the projects and grant associated zoning changes, general plan amendments and land use entitlements. The City may require modification of the projects and/or additional mitigation measures as conditions of reapproval; it may require completed portions of the projects to be changed or removed;

(3) To determine, after notice and hearing, whether continuance of construction and retail activities on the project sites prior to full CEQA compliance and reapproval will prejudice the consideration or implementation of particular mitigation measures or alternatives to the project and to issue appropriate relief pursuant to section 21168.9. As part of this determination it is to consider the following: (i) continuance of construction activities, other than those necessary to ensure safety; (ii) continued operation of businesses that currently are open to the public; (iii) opening of new businesses; (iv) expansion of existing businesses;

(4) To determine, after notice and hearing, whether BCLC should be awarded attorney fees and costs pursuant to Code of Civil Procedure section 1021.5, the proper

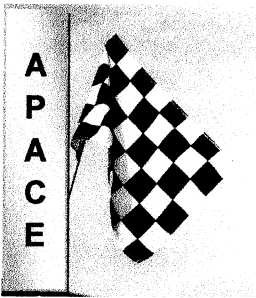
amounts, the party or parties against whom the fee awards should be assessed and to issue appropriate orders.

Buckley, Acting P.J.

WE CONCUR:

Wiseman, J.

Levy, J.



ALLIANCE for the PROTECTION of the
AUBURN COMMUNITY ENVIRONMENT
P.O. BOX 4951
AUBURN, CALIFORNIA 95604-4951
www.APACE2010.org

NOUS GAGNONS

Date: June 1, 2010

To: Chairman,
North Auburn Municipal Council

Subj.: Bohemia Retail Project; Re-Circulation of

RECEIVED
JUN 01 2010
PLANNING DEPT.

As has been previously reported, the developer recently commissioned a follow-up traffic study to ones already commissioned by the county. Apparently, the new custom-built traffic study overcame Placer County's refusal to allow 15% of Wal-Mart traffic on Canal Street via a Secondary Access. Similarly, it overcame Caltrans' refusal to allow the additional 15% of Wal-Mart traffic on SR 49 at Hubert Way via a Single Access.

It is well known that traffic studies use estimates based on any one or a combination of many models. Like all models, it's easy to change a few factors and achieve a desired result.

Nevertheless, the "Follow-up Traffic Study" represents a significant and major revision of the related chapters:

Chapter 3 <u>Project Description</u>	Chapter 10 Noise
Chapter 8 <u>Transportation & Circulation</u>	Chapter 17 Alternatives
Chapter 9 <u>Air Quality</u>	Chapter 18 <u>Cumulative Impacts</u>

Therefore, in accordance with California Statutes (CEQA 15088.5 (a:1,3,4), (b), (c), (d), (e), (f), (g)); the revised Draft EIR for Bohemia Retail Project is to be re-circulated.

It has been noted that Mr. Gerry Haas, Environmental Review Committee, considers this major revision to be only 'additional information' and that re-circulation is not required. It is doubtful that Mr. Haas' opinion is justified by substantial evidence in the administrative record.

Pending the EIR re-circulation, we respectfully request that that the Council rejects the certification and all permits or approvals of the Bohemia Retail Project. A re-circulated BOHEMIA EIR will allow the public's informed response to the revised scope and content.

Sincerely,

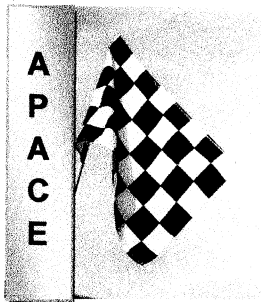
Lee Lively
1702 Tracy Lane; Auburn, CA 95603

CC: Placer County Board of Supervisors
✓ Placer County Planning Commission
Gary Haas, Chairperson, Environmental Review Committee

Mission Statement:

To strengthen our community's economic vitality while preserving the charm of our Auburn community. We oppose commercial development that result in increased economic blight, increased negative environmental effects and the decline in quality of life

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NOUS GAGNONS

ALLIANCE for the PROTECTION of the
AUBURN COMMUNITY ENVIRONMENT
P.O. BOX 4951
AUBURN, CALIFORNIA 95604-4951
www.APACE2010.org

Date: June 1, 2010

To: Chairman,
North Auburn Municipal Council

RECEIVED
JUN 01 2010
PLANNING DEPT

Subj.: Bohemia Retail Project

The harmful economic effects of the Bohemia project on a community such as ours are well known. The historical record is ample and readily available to any interested person. We assume that the members of the Council are among those interested persons.

- The Bohemia Project, as proposed, violates the Auburn-Bowman Community Plan.

The developer, refuses to identify his intended occupant for the Bohemia Project. An honest developer is proud to disclose all details about their project – unless it is a Wal-Mart. Then, silence is necessary due to the universally known negative impact that a Wal-Mart will have on the local economy.

- Wal-Mart sales will be sales lost from local supermarkets, drug stores, clothing stores, hardware stores, bookstores, home furnishings or any business in competition with a Wal-Mart.
- 53% of the money spent at a local retailer stays in our local economy. 14% of the money spent at Wal-Mart stays in our local economy. 40% goes to Corp. HQ in Arkansas.
- Wal-Mart stores reduce county-wide retail payroll. For each new retail clerk hired by Wal-Mart, it costs 1.4 jobs because existing businesses will downsize.
- When retail supply exceeds retail demand, “The proposed project would compete with existing businesses in Placer County to the extent that those businesses would close and contribute to physical deterioration and urban decay. *Bohemia EIR, Chapter 16: Socio-Economic*

An intelligent developer does not dedicate years and allocate significant investment without knowing with whom he is doing business. The US Army Corps of Engineers also know the occupant will be Wal-Mart. It is hoped that the Council will not insult the intelligence of the citizens of Placer County by claiming ignorance.

Page 1 of 2

Mission Statement:

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300

ALLIANCE for the PROTECTION of the AUBURN COMMUNITY ENVIRONMENT

Our group of concerned citizens (APACE) has begun a campaign to inform the people of our North Auburn Community of the impending injury to our local retail businesses that a Wal-Mart will cause. In addition, we will report on the proceedings of our county officials.

Our public information campaign has begun with two mailed notices that were sent to 3,000 and 5,000 selected addresses of our affected citizens. Our basic distribution list includes the registered voters of Placer County – District 3. Future aspects of the campaign will include additional notices, personal letters, newspaper advertisement, etc.

On behalf of the people of our North Placer community, we respectfully request that the Council ignore the myth of 'Jobs' and 'Increased tax revenue' and advise against the approval of the Bohemea Retail Project.

Sincerely,

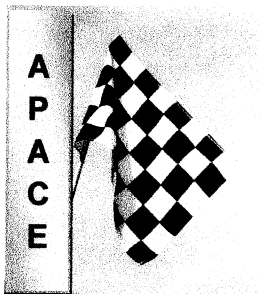
Lee Lively
1702 Tracy Lane; Auburn, CA 95603

CC: Placer County Board of Supervisors
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Gary Haas, Chairperson, Environmental Review Committee

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30



**ALLIANCE for the PROTECTION of the
AUBURN COMMUNITY ENVIRONMENT
P.O. BOX 4951
AUBURN, CALIFORNIA 95604-4951**

NOUS GAGNONS

Date: May 27, 2010

To: County of Placer Planning Commission

Subj.: Bohemia Retail Project

Gentlemen:

May we, again, inquire as to why our county officials would consider a project that will trash a residential neighborhood and injure our local retail businesses?

Also; we again demand, on behalf of the people of Placer County, that the substantially revised subject EIR be re-circulated to provide citizens with sufficient information to make meaningful responses as to the scope and content. (CEQA 15088.5)

As you may know, our group of concerned citizens (APACE) has begun a campaign to inform the general public about the historical negative effects of a Wal-Mart on a local economy such as ours. We believe that the people of our North Auburn community should be aware of the probable injury to our local retail businesses that a Wal-Mart will cause.

Our public information campaign has begun with the two Mailed Flyers that were sent to selected addresses – the text of both is included. Our basic distribution list includes the registered voters of Placer County – District 3. Aspects of our future campaign will include additional Mailed Flyers, personal letters, newspaper advertisements, etc.

Sincerely,

Lee Lively
1702 Tracy Lane; Auburn, CA 95603

CC: Placer County Board of Supervisors

North Auburn Municipal Council

Gerry Haas, Chairperson, Environmental Review Committee

PLACER COUNTY
DATE RECEIVED

MAY 27 2010

PLANNING COMMISSION

Mission Statement:

To strengthen our community's economic vitality while preserving the charm of our Auburn community. We oppose commercial development that result in increased economic blight, increased negative environmental effects and the decline in quality of life

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THE BOHEMIA WAL-MART RETAIL PROJECT

The Mission Of Our County Officials

Intensity and use of land parcels should be governed by considerations of the impact to health, safety and compatibility with established residential areas due to air quality, traffic, noise, night lighting or other disturbing conditions and protection of natural land characteristics.

Promote economic growth in Placer County, providing employment opportunities, additional revenues while maintaining the environmental character of the County.

The Guidelines For Our County Officials

Bohemia (Wal-Mart) Retail Project violates Placer County community design guidelines.

1. The Auburn Bowman Community Plan (ABCP)
--

Establishes goals and principles to regulate the use of land and development.

2. The California Environmental Quality Act (CEQA)
--

Land use and environmental law based on due process of regulations which affect property rights.
--

The Law That Restrains Our County Officials

We all have the fundamental property right of Sole Dominion – property may be used however the owner chooses. Those rights are **limited**, and they **end** when they invade property rights of others.

“People cannot use their property in ways that damage their neighbors’ property.” “Property owners must rely on the enforcement powers of the state (Superior Courts) for the realization of their rights.”

Ref: CATO Institute, ‘Legal Protection for Property Rights’

The Hoax On Our County Officials

The developer still refuses to identify his intended occupant for the Bohemia Project. He says, *“This time around, Costco is the frontrunner but nothing has been made official.”* Are we to believe the ridiculous suggestion that Wal-Mart, Costco and others are contending for occupancy of the location?

A developer is proud to disclose all details about their project – unless it is a Wal-Mart. In that case, the bait and Switch technique is always used. Not unlike the technique being used today.

Wal-Mart was rejected 10 years ago, and there are greater reasons to reject Wal-Mart today.

The Questions To Our County Officials

Will they disregard the Socio-Economic damage of a Wal-Mart in our community?

Will they approve a Wal-Mart project that will trash a residential neighborhood and injure our local retail business while relying on the myth of increased employment and higher tax revenue?

Visit www.APACE2010.org for more information and get involved today!

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**Never doubt that a small group of thoughtful, committed citizens can change the world.
Indeed it's the only thing that ever has." Margaret Mead, Anthropologist**

JOIN YOUR NEIGHBORS! VOICE YOUR OPINION!

*** * ***

ATTEND THE MUNICIPAL ADVISORY COUNCIL MEETING

**They will make recommendation to the Planning Commission
Tuesday, June 8, 2010; 7:00 P.M. (Tentative)
3091 County Center Drive**

**To Confirm : Call (530) 889-4010. or check our Website
They meet on the 2nd Tuesday of each month.**

*** * ***

ATTEND THE PLACER COUNTY PLANNING COMMISSION MEETING

**They will make recommendation to the Board of Supervisors
Thursday, June 24; 10:00 A.M. (Tentative)
3091 County Center Drive**

**To Confirm : Call (530) 745-3000. or check our Website
They meet on the 2nd and 4th Thursday of each month.**

*** * ***

CONTACT THE MEMBERS OF OUR BOARD OF SUPERVISORS

Send an email: bos@placer.ca.gov or call (530) 889-4010.

NOTE: Loomis and Rocklin are also fighting against Wal-Mart.

THE BOHEMIA WAL-MART RETAIL PROJECT

The Mission Of Our County Officials

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- | |
|--|
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Establishes goals and principles to regulate the use of land and development. |
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Land use and environmental law based on due process of regulations which affect property rights. |

The Law That Restrains Our County Officials

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The developer still refuses to identify his intended occupant for the Bohemia Project. He says, *“This time around, Costco is the frontrunner but nothing has been made official.”* Are we to believe the ridiculous suggestion that Wal-Mart, Costco and others are contending for occupancy of the location?

A developer is proud to disclose all details about their project – unless it is a Wal-Mart. In that case, the bait and Switch technique is always used. Not unlike the technique being used today.

Wal-Mart was rejected 10 years ago, and there are greater reasons to reject Wal-Mart today.

The Questions To Our County Officials

Will they disregard the Socio-Economic damage of a Wal-Mart in our community?

Will they approve a Wal-Mart project that will trash a residential neighborhood and injure our local retail business while relying on the myth of increased employment and higher tax revenue?

Visit www.APACE2010.org for more information and get involved today!

**Never doubt that a small group of thoughtful, committed citizens can change the world.
Indeed it's the only thing that ever has." Margaret Mead, Anthropologist**

JOIN YOUR NEIGHBORS! VOICE YOUR OPINION!

*** * ***

ATTEND THE MUNICIPAL ADVISORY COUNCIL MEETING

**They will make recommendation to the Planning Commission
Tuesday, June 8, 2010; 7:00 P.M. (Tentative)
3091 County Center Drive**

**To Confirm : Call (530) 889-4010. or check our Website
They meet on the 2nd Tuesday of each month.**

*** * ***

ATTEND THE PLACER COUNTY PLANNING COMMISSION MEETING

**They will make recommendation to the Board of Supervisors
Thursday, June 24; 10:00 A.M. (Tentative)
3091 County Center Drive**

**To Confirm : Call (530) 745-3000. or check our Website
They meet on the 2nd and 4th Thursday of each month.**

*** * ***

CONTACT THE MEMBERS OF OUR BOARD OF SUPERVISORS

Send an email: bos@placer.ca.gov or call (530) 889-4010.

NOTE: Loomis and Rocklin are also fighting against Wal-Mart.

Michele Kingsbury

From: June Gillam [junegillam700@comcast.net]
Sent: Wednesday, June 02, 2010 7:16 AM
To: Michele Kingsbury
Cc: Julie Davies; June Gillam
Subject: request to speak

Hello,

I am requesting to speak at the Municipal Advisory Council meeting Tuesday, June 8, at 7:00 p.m. at 3091 County Center Drive, please.

I am a home-owner new to Auburn and wish to speak against Walmart coming to town.

Please let me know how to proceed.

Many thanks,
June Gillam
12510 Dennis Court
Auburn, CA 95603

Gerry:
let me know how you
want me to respond to
this.
Michele
x3157

Kathi Heckert

From: LARI L KNEDEL [lknedel@sbcglobal.net]
Sent: Thursday, June 17, 2010 1:26 PM
To: Kathi Heckert
Cc: Gerry Haas
Subject: Comments lost for Bohemia FEIR
Attachments: Bohemia Lari & Terre_Final.doc

Ms. Heckert and Honorable Planning Commission Members:

Attached are comments submitted to the Planning Commission regarding the DEIR for the Bohemia Retail Project prior to the deadline date of 5:00 PM on March 4, 2010. Comments could be faxed or sent via e-mail. These comments were e-mailed and confirmation of receipt was sent at 8:36 AM 3/4/10.

It is rather frustrating and disconcerting that the attached comments, which took a considerable amount of time and effort could just be "merely displaced," when I have a fax confirmation from Maywan Krach, Environmental Coordination Services, that she received the comments within the comment deadline.

According to Gerry Haas, Project Planner for this project, he has no explanation other than it must have been submitted after the deadline, or it must have been misplaced due to the number of comments that were received.

Please consider the comments.

I humbly request confirmation of where my comments ended up, including the time and date, if that can be determined.

Sincerely,

Lari L. Knedel

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JUN 17 2010
PLANNING DEPT.

302

March 3, 2010

Maywan Krach
Environmental Coordination Services
Placer County
Community Development Resource Agency
3091 County Center Drive, Suite 190
Auburn, CA 95603

RE: Bohemia Retail Project (PEIR T20080235 / State Clearinghouse #2001042086)

Placer County Planning Commission Members:

We have several questions concerning the following statements in the Executive Summary of the Draft EIR (**hereinafter referred to as "EIR"**).

Under *Land Use*, the EIR states:

1. *The Auburn/Bowman Community Plan – (hereinafter referred to as "ABCP") - includes various policies that are intended to reduce a project's land use impacts, both to the project site itself and to surrounding uses.*
2. *The project would comply with the ABCP policies related to physical aspects of land use considerations, and impacts were found to be less-than-significant.*

The impacts we have examined in the EIR are "very significant and unavoidable," not only to residents in the surrounding neighborhoods, but to many of the small businesses in Auburn.

The following EXAMPLES illustrate how the Bohemia Retail Project is **does not comport** with the goals and policies found in the ABCP:

EXAMPLE 1

Under Section III - COMMUNITY DEVELOPMENT ELEMENT, the ABCP states:

Section B – Land Use / General Development (s.)

Encourage land uses that accommodate commercial services, ... while at the same time acknowledging that site constraints, design guidelines, and other land use considerations may limit the development of 'regional malls,' 'power centers,' very large commercial boxes or similar types of development.

Chapter 3, Item 3.4 – Project Objectives, the EIR states:

*Design and construct a retail building that will provide a buffer between the residential neighborhoods to the north and east and more intensive commercial/industrial uses to the south and west, **with the end goal of a retail project that is not only compatible on all fronts with its adjoining uses, but contributes to an overall sense of community in the area [emphasis added].*** (Page 3-4)

Under SUMMARY OF IMPACTS AND MITIGATION MEASURES, the EIR states:

1. *No Mitigation Measures are required because the Proposed Project would include services that would compete with existing businesses, including general retailers and groceries, in Placer County to the extent that those businesses would close and the resultant vacancies would contribute to physical deterioration and urban decay.* (Page 2-58)
2. *No Mitigation Measures are necessary for cumulative socio-economic impacts of the proposed project.* (Page 2-72)

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PLANNING DEPT.

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Questions

1. Statements 1 and 2 in the EIR contradict one another; so how do these statements comply with the ABCP?
2. The map included in the EIR shows the location of the retail building in the **northeast portion** of the project site property, with the north side of the retail building directly behind the residents' homes along the **south** side of Dyer Court, and **east** side of the retail building 45-feet from the west side of Canal Street, intruding directly into the Fiddler Green subdivision and the Country Club Estates private park. Parking lots are located in the **south and west** area of the site. How does the description of the retail building's location in the EIR comply with its own project objective?

EXAMPLE 2

Under Section II - A. GENERAL COMMUNITY GOALS, the ABCP goal states:

*The Plan must recognize that clean air and water are essential resources for maintaining a high quality of living, and ensure that these resources are maintained at **acceptable levels [emphasis added]**.*

Under Section IV- B, item #6-Air Quality, the ABCP states:

Protect and improve air quality in the Auburn area.

Under SUMMARY OF IMPACTS AND MITIGATION MEASURES, the EIR states:

1. *Cumulative impacts concerning the production of greenhouse gases were determined to be significant and unavoidable even with implementation of the required mitigation. (Page 2-6)*
2. *Because implementation of feasible mitigation would not reduce the project's short term Nitrogen Oxide emissions below the Placer County Air Pollution Control District's significance threshold, the project would result in a significant and unavoidable impact. (Page 2-6)*
3. *No mitigation measures are required to the impacts related to Carbon Monoxide emissions and impacts related to Long-Term increases of criteria air pollutants. (Page 2-32)*

The EIR defines "criteria air pollutants" as: ozone, carbon monoxide, nitrogen dioxide, sulfur dioxide, and respirable particulate matter.

Chapter 9 – Air Quality, Table 9-1 of the EIR entitled "Effects of Major Criteria Pollutants" lists the following effects of **criteria air pollutants [emphasis added]**:

Health effects of Ozone:

- *Breathing difficulties*
- *Lung tissue damage*
- *Damage to rubber and some plastics*
- *Eye and skin irritation*

Health effects of Carbon Monoxide:

- *Chest pain in heart patients*
- *Headaches and nausea*
- *Reduced mental alertness*
- *High concentration can result in death*

Health effects of Nitrogen Dioxide:

- *Lung irritation and damage*
- *Reacts in the atmosphere to form ozone and rain and acid rain*

Health effects of Sulfur Dioxide:

- Increased lung disease and breathing problems for asthmatics
- Reacts in the atmosphere to form acid rain

Health effects of Particulate Matter:

- Increased respiratory disease
- Lung damage
- Premature death
- Reduced visibility

Under Chapter 9 – AIR QUALITY, 9.2 ENVIRONMENTAL SETTING, “Sensitive Receptors,” the EIR states:
Residents located to the north and east areas of the proposed project location are elderly, which the EIR states
“are more sensitive to air pollution because they tend to be at home for extended periods of time resulting in sustained exposure to any pollutants present.”

Questions

1. How does the proposed Bohemia Retail Project comply with these ABCP goals?
2. How will the Proposed Project mitigate this added risk to the nearby elderly residents? – As no mitigating measures are found in the EIR.

EXAMPLE 3

Under Section I – B. Description of the Study Area, the ABCP states:

Auburn’s attractiveness for residents and visitors is in large part attributable to its vitality and beauty of its natural setting and environment. The open spaces surrounding Auburn serve as a crucial urban function as well. They separate the highly developed areas from the working landscape and from other urban areas.

Under Chapter 3 – Project Description – Page 3-4, the EIR states:

*Design and construct a retail building that will provide a buffer between the residential neighborhoods to the north and east and more intensive commercial/industrial uses to the south and west, **with the end goal of a retail project that is not only compatible on all fronts with its adjoining uses, but contributes to an overall sense of community in the area [emphasis added].***

No mitigation measures are required for the impact on compatibility with existing adjacent land uses. (Page 2-13)

Question

How is a 155,000 square foot commercial building being squeezed into a residential area with access off Canal Street - a two-lane residential street that is the only main entrance to several housing developments - being **compatible** with the “adjacent land uses”?

EXAMPLE 4

Under Section III – F. Noise, the ABCP goals/policies state:

1. *To protect Community Plan Area residents from the harmful and annoying effects of **exposure to excessive noise [emphasis added].***
2. *To **preserve the rural noise environment [emphasis added]** of the Community Plan area and surrounding areas.*
3. ***Residential and other noise sensitive land uses and commercial/industrial land uses create inherently different noise environments owing to the differences in necessary activities [emphasis added].** When such*

incompatible uses come closely into contact, residents may complain and otherwise make it difficult for commercial/industrial uses to conduct their business.

Under SUMMARY OF IMPACTS AND MITIGATION MEASURES, the EIR states:

1. *No mitigation measures are required for traffic-related noise impacts as a result of project implementation.* (Page 2-35)
2. *No mitigation measures are required for impacts associated with new sources of light and glare.* (Page 2-19)
3. *No mitigation measures are required for the impact of cumulative increase in project vicinity noise levels.* (Page 2-70)

Question

How does the “*Delivery Truck and Loading Dock Activity limited to 6:00AM until 12:00 AM,*” – 10-3(b) of the Executive Summary EIR - and “*On-site operational activities that would potentially exceed County noise levels and therefore result in a potentially significant impact including truck circulation, loading dock activity, and parking lot sweeper activity*” – **NOT have an impact** on the adjacent residents and existing sensitive receptors mentioned in the EIR to the north and east of the Projected Project site?

EXAMPLE 5

Under Section I - C. THE REGIONAL SETTING AND CONTEXT, the ABCP states:

Air quality is a regional issue since regional traffic is responsible for much of the deterioration of the local air quality and because air pollution moves out of the more densely developed areas into Placer County and to the east.

Chapter 2 of the EIR Executive Summary states:

1. *Cumulative impacts associated with regional air quality would be significant and, even with the implementation of mitigation measures, cumulative impacts would remain significant and unavoidable.* (Page 2-6)
2. *Approximately 15 % of traffic associated with the proposed project would utilize the Canal Street access – 1615 cars per day – while the remaining 85% would use the project’s Primary Access – SR 49 and Hulbert Way. Therefore under the No Canal Street Access Alternative, the Primary Access location could expect a 15% increase in trips ... Because the No Canal Street Alternative Access is proposed to increase traffic congestion at the Primary Access, and CO2 emissions are directly related to traffic congestion, ... this Alternative would have a greater impact - in regard to air quality - than the Proposed project.* (Pages 17-9, 17-10)
3. *Because the No Canal Street Access Alternative is projected to increase traffic congestion at the Primary Access, and Carbon Monoxide emissions are directly related to traffic congestion, the No Canal Street Access Alternative would have a greater impact as compared to the proposed Project.* (Page 17-10)

Question

How is the EIR compliant with this ABCP goal?

EXAMPLE 6

Under Section V – D. Level of Service, the ABCP states:

The level of service (LOS) minimum standard for roadways and intersections throughout the Plan area shall generally be LOS “C”.

Chapter 8, page 8-7, the EIR defines Level Of Service (LOS) as:

Roadway operating conditions which is a qualitative measure of the effect of a number of factors, including speed and travel time, traffic interruptions, freedom to maneuver, safety driving comfort and convenience,

3/2

delay, and operating costs. An “LOS” is designated a single letter reference, between “A” through “F,” which represents the best to worst service range traffic operations that could occur.

According to Table 8-1 of the EIR, page 8-12, the LOS Criteria defines “A” through “F” as:

Level of Service (LOS)	Description
A	Very low control delay. Most vehicles do not stop at all. Most vehicles arrive during the green light.
B	Generally occurs with good progression. More vehicles stop than with LOS “A” causing higher levels of average delay.
C	Delays from fair progression, longer cycle lengths or both. The number of vehicles stopping is significant at this level, though many still pass through the intersection without stopping.
D	Congestion becomes more noticeable. Longer delays result from unfavorable congestion. Many vehicles stop, and the proportion of vehicles not stopping declines.
E	High delays and generally poor progression.
F	This level, considered to be unacceptable to most drivers, often occurs with oversaturation, that is, when arrival flow rates exceed the capacity of the intersection.

The ABCP #V: Traffic Circulation Element - Table 17 shows the exception to the LOS “C” standard for the SR 49 / Luther Road intersection to be an “E.”

Table 8-15, page 8-43, in the EIR states:

For the Discount Club – projected to be a Costco or Sam’s Club,

- The LOS projected conditions for the SR 49/Luther Road intersection will be a “D” during peak PM hours.
- The LOS projected conditions for the Luther Road / Canal Street intersection will be an “E” during peak PM hours.

Table 8-7, page 8-25, in the EIR states:

The Total “Unadjusted” Proposed Project External Trips to be 9,076.
‘Unadjusted External Trips includes Pass-by Trips’

Table 8-16, page 8-45, in the EIR states:

For the Discount Superstore – projected to be a Walmart,

- The LOS projected conditions for the SR 49 / Luther Road intersection will be a “D” during peak PM hours.
- The LOS projected conditions for the Luther Road / Canal Street intersection will be an “E” during PM peak hours.

Table 8-8, page 8-27, in the EIR states:

The Total “Unadjusted” Proposed Project External Trips to be 10,773.
‘Unadjusted External Trips includes Pass-by Trips’

Page 8-52 which addresses the Christmas Season Conditions states:

The Short Term Plus Project with Christmas Season Conditions would cause the Luther Road / Canal Street intersection to operate at an unacceptable LOS. Also Implementation of the proposed project would result in the lack of available storage length at several intersections. In addition, project construction activities could have a significant impact on circulation in the vicinity of the project.

Table 8-17 and 8-18, pages 8-46 & 8-4,7 in the EIR states:

Roadway conditions for both the Discount Club store and the Discount Superstore to be level "C" for Northbound traffic at SR 49 / Hulbert Way intersection, and level "D" for Southbound traffic at SR 49 / Hulbert Way intersection – during PM peak hours.

Question

With all the projected new daily vehicle trips and the "LOS" projections for the affected main intersections associated with this proposed project, how does the proposed project comply with the ABCP?

EXAMPLE 7

Under III - COMMUNITY DEVELOPMENT, D. # 5, Public Protection, the ABCP states:

Provide public projection services which are appropriate for the urban and rural development proposed by the Community Plan, increasing the level of services as development occurs. In addition, traffic enforcement and accident investigations are provided by the California Highway Patrol.

Under SUMMARY OF IMPACTS AND MITIGATION MEASURES, the EIR states:

Many Mitigation Measures exist for impacts to surrounding intersections, including signalizing the Luther Road / Canal Street Intersection – which is the Secondary Access for the Proposed Project site.

Question

Due to "The LOS projected conditions for the Luther Road / Canal Street intersection will be an "E" during peak PM hours – which is only 0.1 miles from the only ingress and egress to a multi-resident senior trailer-park, how will those senior residents safely pull out on east bound or west bound Luther Road when the intersection 0.1 mile away – Intersection #18 - will be projected to be at an "Unacceptable Level of Service?"

EXAMPLE 8

Under II – GENERAL COMMUNITY GOALS AND PLANNING PRINCIPLES, Section B – 3, the ABCP states:

A mixed use concept should be sought for new development on the larger developable parcels of land and within designated areas where redevelopment may occur. A balance of compatible commercial, industrial, residential civic uses, enjoyable public places, and parks will enhance the community's sense of identity and interaction, **as well as address traffic congestion, air quality, [emphasis added]** and affordable housing issues.

Reference is made in the Executive Summary of the EIR to a "Mixed Use Alternative"– which would include a 35% reduction in square footage and would include two separate retail buildings – one 64,300 sq. ft. building and one 35,700 sq. ft. building, and states:

The Mixed Use Alternative would have fewer impacts to visual resources, public services and utilities, and hazardous materials and hazards as compared to the proposed project.

In Chapter 17, - "Alternatives" under "Transportation and Circulation," the EIR states:

1. *Impacts related to transportation and circulation would be less with The Mixed Use Alternative as compared to the proposed project.*
2. *Under the Mixed Use Alternative, vehicle trips would not be reduced as compared to the proposed project and congestion would generally be the same at the two access locations.*

In Chapter 17, - "Alternatives," pages 17-3, 17-10, and 17-16 under "Air Quality," the EIR states:

1. *Implementation of the proposed project would result in significant impacts in regard to air quality. Construction activities associated with the proposed project would generate PM10 emissions at a level that would exceed Placer County Air Pollution Control District (PCAPCD) significance threshold of 82 pounds per day. In addition, the project would be located in an area of Placer County that **potentially [emphasis added]** contains naturally occurring asbestos (NOA) and construction of the project could result in the release of NOA into the air.*
2. *Both the proposed project and the No Canal Street Access Alternative could result in the release of NOA into the air. If on-site rocks contain asbestos, grading and construction activities could release asbestos fibers into the environment.*
3. *Because air quality impacts are directly related to construction activities and land disturbance area, the Mixed Use Alternative would be expected to have a similar impact during construction operations as compared to the proposed project.*

Questions

1. How do the Proposed Project, the No Canal Street Access Alternative, and the Mixed Use Alternative comply with the ABCP policy?
2. Why are the Transportation and Circulation statements contradictory?
3. In reference to the *November 4, 2008 Department of Conservation California Geological Survey*, the "NOA Hazard Map of the North Auburn Vicinity" indicates details of the likelihood of the presence of NOA in North Auburn and surrounding vicinities. This reference directly contradicts the EIR statement that this area of Placer County could "**potentially**" contain NOA. The scale for the presence of NOA is as follows:
 - Areas **MOST** likely to contain NOA
 - Areas **MODERATELY** likely to contain NOA
 - Areas **LEAST** likely to contain areas of NOA
 - Areas of **Faulting or Shearing**: which adds to the likelihood of NOA

According to this map and scale, the proposed project is located in the area "**MOST**" likely to contain NOA and contains Areas of "**Faulting and Shearing**."

4. This "NOA Hazard Map of the North Auburn Vicinity" was easily accessible online. Why then the contradiction in the EIR statement?

EXAMPLE 9

Under II - GENERAL COMMUNITY GOALS AND PLANNING PRINCIPLES, the ABCP states:

The protection of the environment within the Plan area is necessary in order to maintain the most important attributes that attract people here in the first place and keep long-term residents from moving away.

Under SUMMARY OF IMPACTS AND MITIGATION MEASURES, the EIR states:

1. *No Mitigation Measures are required for the impact of this Proposed Project that would include services that would compete with existing businesses, including general retailers and groceries, in Placer County to the extent that those businesses would close and the resultant vacancies would contribute to physical deterioration and urban decay,*
2. *No Mitigation Measures are necessary for cumulative socio-economic impacts of the proposed project.*

3/5

Question

How will this project protect and maintain the most attractive attributes that attracted people here in the first place? – One being the sense of a small-town community, where local, smaller businesses are kept intact.

EXAMPLE 10

Under III - COMMUNITY DEVELOPMENT ELEMENT #C – Community Design, the ABCP states:

Maintain the present character of established residential areas. Discourage the appearance of creating walled-off communities such as is done with the use of sound walls along roadways that do not contribute to the sense of the community desired for the area.

Under SUMMARY OF IMPACTS AND MITIGATION MEASURES, the EIR states:

A noise barrier 6-8 feet in height would be required to reduce future Delivery Movements and Loading Dock Activity noise levels. Barriers could take the form of earth berms, solid walls, or a combination of the two.

Question

How do these mitigations maintain the character of residential areas and comply with the ABCP?

EXAMPLE 11

Under III - COMMUNITY DEVELOPMENT ELEMENT, #C-(b.)- Commercial, the ABCP states:

Night lighting, visible from the exterior of a building and the projects boundaries should be limited to that necessary for security, safety, and identification. Night lighting should also be screened from adjacent, residential areas and not be directed in an upward manner.

Under III - COMMUNITY DEVELOPMENT ELEMENT #B-(i.)-General Development, the ABCP states:

Intensity and use of individual parcels and buildings should be governed by considerations of health and safety impacts on adjoining properties due to noise, traffic, night lighting or other disturbing conditions, and protection of natural land characteristics.

Under SUMMARY OF IMPACTS AND MITIGATION MEASURES, the EIR states:

The Mitigation Measure for the impacts of on-site noise sources of Loading and Delivery Activities would be to limit these activities between '6AM and 12AM.'

Question

How is this mitigation compliant with this ABCP?

EXAMPLE 12

Under V - TRAFFIC CIRCULATION ELEMENT, the ABCP states:

Loss of 'Peace and Quiet' are often complaints from rural residents as areas build out, particularly when vehicular traffic increases near homes.

Under SUMMARY OF IMPACTS AND MITIGATION MEASURES, the EIR states:

1. *No mitigation measures are required for traffic related noise impacts as a result of the project implementation.*
2. *No mitigation measures are required due to cumulative increases in project vicinity noise levels.*

Question

How is the projected 10,773 new daily car trips to the project and the estimated 1615 new daily car trips on Canal Street alone, **NOT** contributing to excess vehicle noise?

EXAMPLE 13

Under V - TRAFFIC CIRCULATION ELEMENT, the ABCP states:

'Through' traffic which must pass through this Plan area shall be accommodated in a manner which will not encourage the use of neighborhood roadways. This 'through traffic' shall be directed to appropriate routes in order to maintain public safety & local quality of life.

Under SUMMARY OF IMPACTS AND MITIGATION MEASURES, the EIR states:

1. *No mitigation measures are required for impacts related to vehicular safety from design features or incompatible uses.*
2. *No mitigation measures are required for impacts related to emergency vehicle access.*

Questions

1. How will the developer prevent the use of neighborhood roads being used to reach the retail site?
2. With the estimated 1615 new cars per day on Canal Street – with little or no “roadway shoulder” – how will the project comply with access for emergency vehicles, since Canal Street is the main access to several neighborhoods?

EXAMPLE 14

Under V - TRAFFIC CIRCULATION ELEMENT, the ABCP states:

Provide safe and efficient Transportation systems for residents of the Plan area and others who use the systems.

Under SUMMARY OF IMPACTS AND MITIGATION MEASURES, the EIR states:

The consideration of traffic impacts on roadway capacity concluded that impacts would be 'less-than-significant.'

Question

How is the projected 10,773 new daily car trips to the project and the estimated 1615 new daily car trips on Canal Street considered “less-than-significant?”

EXAMPLE 15

Under III - COMMUNITY DEVELOPMENT ELEMENT, B - LAND USE, the ABCP states:

Preserve and maintain the rural character and quality of the outlying areas. Factors that contribute to this rural character include the predominance of native vegetation.

Under SUMMARY OF IMPACTS AND MITIGATION MEASURES, the EIR states:

The mitigation measures for the 'Impacts to Protected Trees' would be to Submit to the Placer County Tree Preservation Fund, payment in the amount of \$65,180 for impacts to woodland oaks.

Question

How will “clear-cutting” existing native oak trees on the Bohemia Property preserve this rural character?

The Developer claims these oak trees are “sick and need to be removed.”

I would advocate these mature native oak trees not be removed before they are examined by a licensed certified arborist before determining their worth or demise. The three sources Mr. Conkey mentions as specialists are not licensed, certified arborists.

Bruce D. Barnett is an Environmental Consulting & Regulatory Compliance Service;

Gibson & Skordal is a Wetland Consulting Firm; and

Yamasaki Landscape Architecture Planning & Construction is a Landscape Construction Business

3/7

IN CLOSING:

After reviewing the EIR and ABCP, the developer has many questions to answer regarding its NON-COMPLIANCE with the ABCP goals and policies and some of its own goals.

THIS PROJECT SHOULD NOT:

Contribute to deterioration of air quality;

THIS PROJECT SHOULD NOT:

Contribute to physical deterioration and urban decay of the area;

THIS PROJECT SHOULD NOT:

Contribute to increased disturbing conditions to adjacent properties;

THIS PROJECT SHOULD NOT:

Increase traffic patterns to the extent that they will invade surrounding residential areas;

THIS PROJECT SHOULD NOT:

Contribute more traffic congestion to an already congested section of the Hwy49 corridor;

THIS PROJECT SHOULD NOT:

Eliminate existing, mature native oak trees not examined by a licensed certified arborist before determining their worth or demise.

My first option is to support the **“Mixed Use Alternative, with NO CANAL Street Access.**

If we, - as a community - fail to convince the Decision Makers that this project is **“just not the right fit”** for the area, then I would urge the **Decision Makers to approve the “NO CANAL Street Access Alternative.”**

I can understand the Developer’s desire to develop this property so he can “just move on.”

I would hope that he understands how the surrounding property owners’ will suffer the long-term Impacts of this project, and will **not** be able to just **“move-on”** due to the financial hardship of relocating.

Thank you for considering our comments and concerns.

Lari L. Knedel, BSN, RN
13180 Erin Drive
Auburn, CA 95603
530-888-6465

Terre A. Davis, BSA,
13180 Erin Drive
Auburn, CA 95603
530-888-6465

Cc: North Auburn MAC Members: Placer County Board of Supervisors:
Gregory Wilbur F. C. “Rocky” Rockholm
Ken Gregory Robert Weygandt
Laurence Farinha Jim Holmes
Dave Hungerford Kirk Uhler
Chuck Rydell Jennifer Montgomery
Jacquie Flecklin
Mark Watts

received certified

Michael J. Johnson, AICP
Agency Director
Environmental Coordination Services
Placer County Community Development Resource Agency
3091 County Center Drive, Suite 190
Auburn, CA 95603

June 21, 2010

Received

JUN 23 2010

RE: Bohemia Retail Project (PEIR T20080235 / State Clearinghouse #2001042086)

CDRA-Admin.

Dear Sir:

The Final Environmental Impact Report (FEIR) for the above mentioned project became available for a 10-day public review on June 16, 2010. To our astonishment, we did not appear in the list of Commenters' included in the FEIR.

Lari Knedel contacted the offices of Maywan Krach – Environmental Coordination Services - and Gerry Haas, Bohemia Project Planner; to inquire why our 10-page comments on the Draft Environmental Impact Report (DEIR) were not included in the published comments. This 10-page document was submitted electronically March 3, 2010 at 7:26pm, so it should have been included in the Final Environmental Impact Report. Ms. Krach electronically confirmed receipt of our comments on March 4, 2010 at 8:35am, copy attached.

This is very disconcerting; given the amount of time and effort it took to evaluate the DEIR and Auburn Bowman Community Plan so that we could submit informed and intelligent comments and concerns regarding the Bohemia Retail Project. It is also very disconcerting that based on the notice that we have only 4 more days to provide written comments to the FEIR, when your agency has not even responded to our comments on the DEIR.

Ms. Krach also informed Lari today that your agency would have written comments to our March 3rd comments posted to the public web-page by 5:00 p.m. today. It is our understanding that the comments are forwarded to the respective consultant for response. Given that we are supposed to have written comments by 5:00 p.m. today, we question the due diligence in responding to our comments/concerns. Ms. Krach also stated that there would be an extension of the 10-day review period due to the oversight of our March 3, 2010 written comments on the DEIR.

Please confirm ASAP, the date on which written comments on the FEIR are due.

Sincerely,

Lari L. Knedel & Terre A. Davis

Lari L. Knedel & Terre A. Davis
13180 Erin Drive
Auburn, CA 95603
530.888.6465

Cc via e-mail:
Maywan Krach
Gerry Haas
Placer County Planning Commission Members

3/9

FW: Bohemia Retail Project - Comments on Draft EIR

Thu, June 17, 2010 11:09:30 AM

From: Davis, Terre <Terre.Davis@ftb.ca.gov> View Contact
 To: LARI L KNEDEL <lknedel@sbcglobal.net>

Here is the email acknowledging receipt of our comments.

From: Maywan Krach [mailto:MKrach@placer.ca.gov]
Sent: Thursday, March 04, 2010 8:36 AM
To: terre davis; Placer County Environmental Coordination Services
Cc: lknedel@sbcglobal.net; Davis, Terre
Subject: RE: Bohemia Retail Project - Comments on Draft EIR

Comments received and have been forwarded to the planner

Thanks.

Maywan Krach
 Community Development Technician
 Environmental Coordination Services
 Placer County Community Development Resource Agency
 3091 County Center Drive, Suite 190, Auburn, CA 95603
 530-745-3132 fax 530-745-3003
 8am-5pm, Mon-Fri

From: terre davis [mailto:terred@sbcglobal.net]
Sent: Wednesday, March 03, 2010 7:26 PM
To: Placer County Environmental Coordination Services
Cc: lknedel@sbcglobal.net; Terre Davis
Subject: Bohemia Retail Project - Comments on Draft EIR

Maywan Krach,

Attached for your consideration are our comments regarding the draft EIR for the Bohemia Retail Project. If you have any questions, please do not hesitate to contact me at the number listed below.

Sincerely,

Terre Davis
 530.888.6465

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March 3, 2010

Maywan Krach
Environmental Coordination Services
Placer County
Community Development Resource Agency
3091 County Center Drive, Suite 190
Auburn, CA 95603

RE: Bohemia Retail Project (PEIR T20080235 / State Clearinghouse #2001042086)

Placer County Planning Commission Members:

We have several questions concerning the following statements in the Executive Summary of the Draft EIR (**hereinafter referred to as "EIR"**).

Under *Land Use*, the EIR states:

1. *The Auburn/Bowman Community Plan – (hereinafter referred to as "ABCP") - includes various policies that are intended to reduce a project's land use impacts, both to the project site itself and to surrounding uses.*
2. *The project would comply with the ABCP policies related to physical aspects of land use considerations, and impacts were found to be less-than-significant.*

The impacts we have examined in the EIR are "very significant and unavoidable," not only to residents in the surrounding neighborhoods, but to many of the small businesses in Auburn.

The following EXAMPLES illustrate how the Bohemia Retail Project is **does not comport** with the goals and policies found in the ABCP:

EXAMPLE 1

Under Section III - COMMUNITY DEVELOPMENT ELEMENT, the ABCP states:

Section B – Land Use / General Development (s.)

Encourage land uses that accommodate commercial services, ... while at the same time acknowledging that site constraints, design guidelines, and other land use considerations may limit the development of 'regional malls,' 'power centers,' very large commercial boxes or similar types of development.

Chapter 3, Item 3.4 – Project Objectives, the EIR states:

*Design and construct a retail building that will provide a buffer between the residential neighborhoods to the north and east and more intensive commercial/industrial uses to the south and west, **with the end goal of a retail project that is not only compatible on all fronts with its adjoining uses, but contributes to an overall sense of community in the area [emphasis added].*** (Page 3-4)

Under SUMMARY OF IMPACTS AND MITIGATION MEASURES, the EIR states:

1. *No Mitigation Measures are required because the Proposed Project would include services that would compete with existing businesses, including general retailers and groceries, in Placer County to the extent that those businesses would close and the resultant vacancies would contribute to physical deterioration and urban decay.* (Page 2-58)
2. *No Mitigation Measures are necessary for cumulative socio-economic impacts of the proposed project.* (Page 2-72)

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Questions

1. Statements 1 and 2 in the EIR contradict one another; so how do these statements comply with the ABCP?
2. The map included in the EIR shows the location of the retail building in the **northeast portion** of the project site property, with the north side of the retail building directly behind the residents' homes along the **south** side of Dyer Court, and **east** side of the retail building 45-feet from the west side of Canal Street, intruding directly into the Fiddler Green subdivision and the Country Club Estates private park. Parking lots are located in the **south and west** area of the site. How does the description of the retail building's location in the EIR comply with its own project objective?

EXAMPLE 2

Under Section II - A. GENERAL COMMUNITY GOALS, the ABCP goal states:

*The Plan must recognize that clean air and water are essential resources for maintaining a high quality of living, and ensure that these resources are maintained at **acceptable levels** [emphasis added].*

Under Section IV- B, item #6-Air Quality, the ABCP states:

Protect and improve air quality in the Auburn area.

Under SUMMARY OF IMPACTS AND MITIGATION MEASURES, the EIR states:

1. *Cumulative impacts concerning the production of greenhouse gases were determined to be significant and unavoidable even with implementation of the required mitigation. (Page 2-6)*
2. *Because implementation of feasible mitigation would not reduce the project's short term Nitrogen Oxide emissions below the Placer County Air Pollution Control District's significance threshold, the project would result in a significant and unavoidable impact. (Page 2-6)*
3. *No mitigation measures are required to the impacts related to Carbon Monoxide emissions and impacts related to Long-Term increases of criteria air pollutants. (Page 2-32)*

The EIR defines "criteria air pollutants" as: ozone, carbon monoxide, nitrogen dioxide, sulfur dioxide, and respirable particulate matter.

Chapter 9 – Air Quality, Table 9-1 of the EIR entitled "Effects of Major Criteria Pollutants" lists the following effects of **criteria air pollutants** [emphasis added]:

Health effects of Ozone:

- *Breathing difficulties*
- *Lung tissue damage*
- *Damage to rubber and some plastics*
- *Eye and skin irritation*

Health effects of Carbon Monoxide:

- *Chest pain in heart patients*
- *Headaches and nausea*
- *Reduced mental alertness*
- *High concentration can result in death*

Health effects of Nitrogen Dioxide:

- *Lung irritation and damage*
- *Reacts in the atmosphere to form ozone and rain and acid rain*

Health effects of Sulfur Dioxide:

- Increased lung disease and breathing problems for asthmatics
- Reacts in the atmosphere to form acid rain

Health effects of Particulate Matter:

- Increased respiratory disease
- Lung damage
- Premature death
- Reduced visibility

Under Chapter 9 – AIR QUALITY, 9.2 ENVIRONMENTAL SETTING, “Sensitive Receptors,” the EIR states:
Residents located to the north and east areas of the proposed project location are elderly, which the EIR states
“are more sensitive to air pollution because they tend to be at home for extended periods of time resulting in sustained exposure to any pollutants present.”

Questions

1. How does the proposed Bohemia Retail Project comply with these ABCP goals?
2. How will the Proposed Project mitigate this added risk to the nearby elderly residents? – As no mitigating measures are found in the EIR.

EXAMPLE 3

Under Section I – B. Description of the Study Area, the ABCP states:

Auburn’s attractiveness for residents and visitors is in large part attributable to its vitality and beauty of its natural setting and environment. The open spaces surrounding Auburn serve as a crucial urban function as well. They separate the highly developed areas from the working landscape and from other urban areas.

Under Chapter 3 – Project Description – Page 3-4, the EIR states:

*Design and construct a retail building that will provide a buffer between the residential neighborhoods to the north and east and more intensive commercial/industrial uses to the south and west, **with the end goal of a retail project that is not only compatible on all fronts with its adjoining uses, but contributes to an overall sense of community in the area [emphasis added].***

No mitigation measures are required for the impact on compatibility with existing adjacent land uses. (Page 2-13)

Question

How is a 155,000 square foot commercial building being squeezed into a residential area with access off Canal Street - a two-lane residential street that is the only main entrance to several housing developments - being **compatible** with the “adjacent land uses”?

EXAMPLE 4

Under Section III – F. Noise, the ABCP goals/policies state:

1. *To protect Community Plan Area residents from the harmful and annoying effects of **exposure to excessive noise [emphasis added].***
2. *To **preserve the rural noise environment [emphasis added]** of the Community Plan area and surrounding areas.*
3. ***Residential and other noise sensitive land uses and commercial/industrial land uses create inherently different noise environments owing to the differences in necessary activities [emphasis added].** When such*

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incompatible uses come closely into contact, residents may complain and otherwise make it difficult for commercial/industrial uses to conduct their business.

Under SUMMARY OF IMPACTS AND MITIGATION MEASURES, the EIR states:

1. *No mitigation measures are required for traffic-related noise impacts as a result of project implementation. (Page 2-35)*
2. *No mitigation measures are required for impacts associated with new sources of light and glare. (Page 2-19)*
3. *No mitigation measures are required for the impact of cumulative increase in project vicinity noise levels. (Page 2-70)*

Question

How does the “*Delivery Truck and Loading Dock Activity limited to 6:00AM until 12:00 AM,*” – 10-3(b) of the Executive Summary EIR - and “*On-site operational activities that would potentially exceed County noise levels and therefore result in a potentially significant impact including truck circulation, loading dock activity, and parking lot sweeper activity*” – **NOT have an impact** on the adjacent residents and existing sensitive receptors mentioned in the EIR to the north and east of the Projected Project site?

EXAMPLE 5

Under Section I - C. THE REGIONAL SETTING AND CONTEXT, the ABCP states:

Air quality is a regional issue since regional traffic is responsible for much of the deterioration of the local air quality and because air pollution moves out of the more densely developed areas into Placer County and to the east.

Chapter 2 of the EIR Executive Summary states:

1. *Cumulative impacts associated with regional air quality would be significant and, even with the implementation of mitigation measures, cumulative impacts would remain significant and unavoidable. (Page 2-6)*
2. *Approximately 15 % of traffic associated with the proposed project would utilize the Canal Street access – 1615 cars per day – while the remaining 85% would use the project’s Primary Access – SR 49 and Hulbert Way. Therefore under the No Canal Street Access Alternative, the Primary Access location could expect a 15% increase in trips ... Because the No Canal Street Alternative Access is proposed to increase traffic congestion at the Primary Access, and CO2 emissions are directly related to traffic congestion, ... this Alternative would have a greater impact - in regard to air quality - than the Proposed project. (Pages 17-9, 17-10)*
3. *Because the No Canal Street Access Alternative is projected to increase traffic congestion at the Primary Access, and Carbon Monoxide emissions are directly related to traffic congestion, the No Canal Street Access Alternative would have a greater impact as compared to the proposed Project. (Page 17-10)*

Question

How is the EIR compliant with this ABCP goal?

EXAMPLE 6

Under Section V – D. Level of Service, the ABCP states:

The level of service (LOS) minimum standard for roadways and intersections throughout the Plan area shall generally be LOS “C”.

Chapter 8, page 8-7, the EIR defines Level Of Service (LOS) as:

Roadway operating conditions which is a qualitative measure of the effect of a number of factors, including speed and travel time, traffic interruptions, freedom to maneuver, safety driving comfort and convenience,

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delay, and operating costs. An "LOS" is designated a single letter reference, between "A" through "F," which represents the best to worst service range traffic operations that could occur.

According to Table 8-1 of the EIR, page 8-12, the LOS Criteria defines "A" through "F" as:

Level of Service (LOS)	Description
A	Very low control delay. Most vehicles do not stop at all. Most vehicles arrive during the green light.
B	Generally occurs with good progression. More vehicles stop than with LOS "A" causing higher levels of average delay.
C	Delays from fair progression, longer cycle lengths or both. The number of vehicles stopping is significant at this level, though many still pass through the intersection without stopping.
D	Congestion becomes more noticeable. Longer delays result from unfavorable congestion. Many vehicles stop, and the proportion of vehicles not stopping declines.
E	High delays and generally poor progression.
F	This level, considered to be unacceptable to most drivers, often occurs with oversaturation, that is, when arrival flow rates exceed the capacity of the intersection.

The ABCP #V: Traffic Circulation Element - Table 17 shows the exception to the LOS "C" standard for the SR 49 / Luther Road intersection to be an "E."

Table 8-15, page 8-43, in the EIR states:

For the Discount Club—projected to be a Costco or Sam's Club,

- The LOS projected conditions for the SR 49/Luther Road intersection will be a "D" during peak PM hours.
- The LOS projected conditions for the Luther Road / Canal Street intersection will be an "E" during peak PM hours.

Table 8-7, page 8-25, in the EIR states:

The Total "Unadjusted" Proposed Project External Trips to be 9,076.
'Unadjusted External Trips includes Pass-by Trips'

Table 8-16, page 8-45, in the EIR states:

For the Discount Superstore—projected to be a Walmart,

- The LOS projected conditions for the SR 49 / Luther Road intersection will be a "D" during peak PM hours.
- The LOS projected conditions for the Luther Road / Canal Street intersection will be an "E" during PM peak hours.

Table 8-8, page 8-27, in the EIR states:

The Total "Unadjusted" Proposed Project External Trips to be 10,773.
'Unadjusted External Trips includes Pass-by Trips'

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Page 8-52 which addresses the Christmas Season Conditions states:

The Short Term Plus Project with Christmas Season Conditions would cause the Luther Road / Canal Street intersection to operate at an unacceptable LOS. Also Implementation of the proposed project would result in the lack of available storage length at several intersections. In addition, project construction activities could have a significant impact on circulation in the vicinity of the project.

Table 8-17 and 8-18, pages 8-46 & 8-47 in the EIR states:

Roadway conditions for both the Discount Club store and the Discount Superstore to be level "C" for Northbound traffic at SR 49 / Hulbert Way intersection, and level "D" for Southbound traffic at SR 49 / Hulbert Way intersection – during PM peak hours.

Question

With all the projected new daily vehicle trips and the "LOS" projections for the affected main intersections associated with this proposed project, how does the proposed project comply with the ABCP?

EXAMPLE 7

Under III - COMMUNITY DEVELOPMENT, D. # 5, Public Protection, the ABCP states:

Provide public projection services which are appropriate for the urban and rural development proposed by the Community Plan, increasing the level of services as development occurs. In addition, traffic enforcement and accident investigations are provided by the California Highway Patrol.

Under SUMMARY OF IMPACTS AND MITIGATION MEASURES, the EIR states:

Many Mitigation Measures exist for impacts to surrounding intersections, including signaling the Luther Road / Canal Street Intersection – which is the Secondary Access for the Proposed Project site.

Question

Due to "The LOS projected conditions for the Luther Road / Canal Street intersection will be an "E" during peak PM hours – which is only 0.1 miles from the only ingress and egress to a multi-resident senior trailer-park, how will those senior residents safely pull out on east bound or west bound Luther Road when the intersection 0.1 mile away – Intersection #18 - will be projected to be at an "Unacceptable Level of Service?"

EXAMPLE 8

Under II – GENERAL COMMUNITY GOALS AND PLANNING PRINCIPLES, Section B – 3, the ABCP states:

A mixed use concept should be sought for new development on the larger developable parcels of land and within designated areas where redevelopment may occur. A balance of compatible commercial, industrial, residential civic uses, enjoyable public places, and parks will enhance the community's sense of identity and interaction, **as well as address traffic congestion, air quality, [emphasis added]** and affordable housing issues.

Reference is made in the Executive Summary of the EIR to a "Mixed Use Alternative" – which would include a 35% reduction in square footage and would include two separate retail buildings – one 64,300 sq. ft. building and one 35,700 sq. ft. building, and states:

The Mixed Use Alternative would have fewer impacts to visual resources, public services and utilities, and hazardous materials and hazards as compared to the proposed project.

In Chapter 17, - "Alternatives" under "Transportation and Circulation," the EIR states:

- 1. Impacts related to transportation and circulation would be less with The Mixed Use Alternative as compared to the proposed project.*
- 2. Under the Mixed Use Alternative, vehicle trips would not be reduced as compared to the proposed project and congestion would generally be the same at the two access locations.*

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In Chapter 17, - "Alternatives," pages 17-3, 17-10, and 17-16 under "Air Quality," the EIR states:

1. *Implementation of the proposed project would result in significant impacts in regard to air quality. Construction activities associated with the proposed project would generate PM10 emissions at a level that would exceed Placer County Air Pollution Control District (PCAPCD) significance threshold of 82 pounds per day. In addition, the project would be located in an area of Placer County that **potentially [emphasis added]** contains naturally occurring asbestos (NOA) and construction of the project could result in the release of NOA into the air.*
2. *Both the proposed project and the No Canal Street Access Alternative could result in the release of NOA into the air. If on-site rocks contain asbestos, grading and construction activities could release asbestos fibers into the environment.*
3. *Because air quality impacts are directly related to construction activities and land disturbance area, the Mixed Use Alternative would be expected to have a similar impact during construction operations as compared to the proposed project.*

Questions

1. How do the Proposed Project, the No Canal Street Access Alternative, and the Mixed Use Alternative comply with the ABCP policy?
2. Why are the Transportation and Circulation statements contradictory?
3. In reference to the November 4, 2008 Department of Conservation California Geological Survey, the "NOA Hazard Map of the North Auburn Vicinity" indicates details of the likelihood of the presence of NOA in North Auburn and surrounding vicinities. This reference directly contradicts the EIR statement that this area of Placer County could "potentially" contain NOA. The scale for the presence of NOA is as follows:
 - Areas **MOST** likely to contain NOA
 - Areas **MODERATELY** likely to contain NOA
 - Areas **LEAST** likely to contain areas of NOA
 - Areas of **Faulting or Shearing**: which adds to the likelihood of NOA

According to this map and scale, the proposed project is located in the area "**MOST**" likely to contain NOA and contains Areas of "**Faulting and Shearing**."

4. This "NOA Hazard Map of the North Auburn Vicinity" was easily accessible online. Why then the contradiction in the EIR statement?

EXAMPLE 9

Under II - GENERAL COMMUNITY GOALS AND PLANNING PRINCIPLES, the ABCP states:

The protection of the environment within the Plan area is necessary in order to maintain the most important attributes that attract people here in the first place and keep long-term residents from moving away.

Under SUMMARY OF IMPACTS AND MITIGATION MEASURES, the EIR states:

1. *No Mitigation Measures are required for the impact of this Proposed Project that would include services that would compete with existing businesses, including general retailers and groceries, in Placer County to the extent that those businesses would close and the resultant vacancies would contribute to physical deterioration and urban decay,*
2. *No Mitigation Measures are necessary for cumulative socio-economic impacts of the proposed project.*

Question

How will this project protect and maintain the most attractive attributes that attracted people here in the first place? – One being the sense of a small-town community, where local, smaller businesses are kept intact.

EXAMPLE 10

Under III - COMMUNITY DEVELOPMENT ELEMENT #C – Community Design, the ABCP states:

Maintain the present character of established residential areas. Discourage the appearance of creating walled-off communities such as is done with the use of sound walls along roadways that do not contribute to the sense of the community desired for the area.

Under SUMMARY OF IMPACTS AND MITIGATION MEASURES, the EIR states:

A noise barrier 6-8 feet in height would be required to reduce future Delivery Movements and Loading Dock Activity noise levels. Barriers could take the form of earth berms, solid walls, or a combination of the two.

Question

How do these mitigations maintain the character of residential areas and comply with the ABCP?

EXAMPLE 11

Under III - COMMUNITY DEVELOPMENT ELEMENT, #C-(b.)- Commercial, the ABCP states:

Night lighting, visible from the exterior of a building and the projects boundaries should be limited to that necessary for security, safety, and identification. Night lighting should also be screened from adjacent, residential areas and not be directed in an upward manner.

Under III - COMMUNITY DEVELOPMENT ELEMENT #B-(i.)-General Development, the ABCP states:

Intensity and use of individual parcels and buildings should be governed by considerations of health and safety impacts on adjoining properties due to noise, traffic, night lighting or other disturbing conditions, and protection of natural land characteristics.

Under SUMMARY OF IMPACTS AND MITIGATION MEASURES, the EIR states:

The Mitigation Measure for the impacts of on-site noise sources of Loading and Delivery Activities would be to limit these activities between '6AM and 12AM.'

Question

How is this mitigation compliant with this ABCP?

EXAMPLE 12

Under V - TRAFFIC CIRCULATION ELEMENT, the ABCP states:

Loss of 'Peace and Quiet' are often complaints from rural residents as areas build out, particularly when vehicular traffic increases near homes.

Under SUMMARY OF IMPACTS AND MITIGATION MEASURES, the EIR states:

- 1. No mitigation measures are required for traffic related noise impacts as a result of the project implementation.*
- 2. No mitigation measures are required due to cumulative increases in project vicinity noise levels.*

Question

How is the projected 10,773 new daily car trips to the project and the estimated 1615 new daily car trips on Canal Street alone, NOT contributing to excess vehicle noise?

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EXAMPLE 13

Under V - TRAFFIC CIRCULATION ELEMENT, the ABCP states:

'Through' traffic which must pass through this Plan area shall be accommodated in a manner which will not encourage the use of neighborhood roadways. This 'through traffic' shall be directed to appropriate routes in order to maintain public safety & local quality of life.

Under SUMMARY OF IMPACTS AND MITIGATION MEASURES, the EIR states:

1. *No mitigation measures are required for impacts related to vehicular safety from design features or incompatible uses.*
2. *No mitigation measures are required for impacts related to emergency vehicle access.*

Questions

1. How will the developer prevent the use of neighborhood roads being used to reach the retail site?
2. With the estimated 1615 new cars per day on Canal Street – with little or no “roadway shoulder” – how will the project comply with access for emergency vehicles, since Canal Street is the main access to several neighborhoods?

EXAMPLE 14

Under V - TRAFFIC CIRCULATION ELEMENT, the ABCP states:

Provide safe and efficient Transportation systems for residents of the Plan area and others who use the systems.

Under SUMMARY OF IMPACTS AND MITIGATION MEASURES, the EIR states:

The consideration of traffic impacts on roadway capacity concluded that impacts would be 'less-than-significant.'

Question

How is the projected 10,773 new daily car trips to the project and the estimated 1615 new daily car trips on Canal Street considered “less-than-significant?”

EXAMPLE 15

Under III - COMMUNITY DEVELOPMENT ELEMENT, B - LAND USE, the ABCP states:

Preserve and maintain the rural character and quality of the outlying areas. Factors that contribute to this rural character include the predominance of native vegetation.

Under SUMMARY OF IMPACTS AND MITIGATION MEASURES, the EIR states:

The mitigation measures for the 'Impacts to Protected Trees' would be to Submit to the Placer County Tree Preservation Fund, payment in the amount of \$65,180 for impacts to woodland oaks.

Question

How will “clear-cutting” existing native oak trees on the Bohemia Property preserve this rural character?

The Developer claims these oak trees are “sick and need to be removed.”

I would advocate these mature native oak trees not be removed before they are examined by a licensed certified arborist before determining their worth or demise. The three sources Mr. Conkey mentions as specialists are not licensed, certified arborists.

Bruce D. Barnett is an Environmental Consulting & Regulatory Compliance Service;

Gibson & Skordal is a Wetland Consulting Firm; and

Yamasaki Landscape Architecture Planning & Construction is a Landscape Construction Business

IN CLOSING:

After reviewing the EIR and ABCP, the developer has many questions to answer regarding its NON-COMPLIANCE with the ABCP goals and policies and some of its own goals.

THIS PROJECT SHOULD NOT:

Contribute to deterioration of air quality;

THIS PROJECT SHOULD NOT:

Contribute to physical deterioration and urban decay of the area;

THIS PROJECT SHOULD NOT:

Contribute to increased disturbing conditions to adjacent properties;

THIS PROJECT SHOULD NOT:

Increase traffic patterns to the extent that they will invade surrounding residential areas;

THIS PROJECT SHOULD NOT:

Contribute more traffic congestion to an already congested section of the Hwy49 corridor;

THIS PROJECT SHOULD NOT:

Eliminate existing, mature native oak trees not examined by a licensed certified arborist before determining their worth or demise.

My first option is to support the **"Mixed Use Alternative, with NO CANAL Street Access.**

If we, - as a community - fail to convince the Decision Makers that this project is **"just not the right fit"** for the area, then I would urge the **Decision Makers to approve the "NO CANAL Street Access Alternative."**

I can understand the Developer's desire to develop this property so he can "just move on."

I would hope that he understands how the surrounding property owners' will suffer the long-term Impacts of this project, and will **not** be able to just **"move-on"** due to the financial hardship of relocating.

Thank you for considering our comments and concerns.

Lari L. Knedel, BSN, RN
13180 Erin Drive
Auburn, CA 95603
530-888-6465

Terre A. Davis, BSA,
13180 Erin Drive
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530-888-6465

Cc: North Auburn MAC Members: Placer County Board of Supervisors:
Gregory Wilbur F. C. "Rocky" Rockholm
Ken Gregory Robert Weygandt
Laurence Farinha Jim Holmes
Dave Hungerford Kirk Uhler
Chuck Rydell Jennifer Montgomery
Jacquie Flecklin
Mark Watts

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COUNTY OF PLACER
Community Development Resource Agency

Michael J. Johnson, AICP
Agency Director

ENVIRONMENTAL
COORDINATION SERVICES

**NOTICE OF AVAILABILITY OF A FINAL EIR
FOR PUBLIC REVIEW**

The Final Environmental Impact Report for the following project has been released by Placer County :

PROJECT NAME: Bohemia Retail Project (PEIR T20080235 / State Clearinghouse# 2001042086)

REVIEW PERIOD: June 16, 2010 – June 25, 2010

PROJECT DESCRIPTION: The proposed project is surrounded by existing or approved residential, commercial and industrial uses. The proposed project includes the construction of a 155,000-square-foot retail building on 18.62 acres. A tenant (or tenants) for the project has not been determined at this time. The proposed project would have the potential for a range of products and services for the retail consumer. The tenant(s) could include a discount club store, a discount superstore, a home improvement center, or a general retailer. It should be noted that the project could potentially allow for a portion of the site to be used as an outdoor garden center, lumberyard, or home improvement outdoor storage area.

PROJECT LOCATION: The 18.62-acre project site is located approximately 2.3 miles north of downtown Auburn, within Placer County, and consists of four parcels located on the east side of State Route 49 near the intersection of SR 49 and Luther Road. (Assessor's Parcel Numbers 052-102-012, 013, 017, 053)

The Final EIR consists of (1) Introduction and List of Commenters, (2) Revisions to the Draft EIR text, (3) Responses to Comments on the Draft EIR, and (4) A Mitigation Monitoring and Reporting Plan. Any comments on the Final EIR should be forwarded to the following address no later than 5:00 pm on **June 25, 2010** to be included in the materials to be sent to the Planning Commission. The Planning Commission will consider this proposal at a hearing on Thursday, July 8, 2010 at 10:05 am in the Placer County Planning Commission Hearing Room, located at 3091 County Center Drive (corner of Richardson Drive and Bell Road in the Dewitt Center), Auburn. Property owners within 300 feet of the project area will also be notified of the hearing.

Environmental Coordination Services
Community Development Resource Agency
3091 County Center Drive, Suite 190
Auburn, CA 95602
email: cdraecs@placer.ca.gov
fax 530-745-3003

The Final EIR is available for public review at the following locations: (County offices are closed on Friday, June 18, 2010 for furlough.)

- Community Development Resource Center public counter, 3091 County Center Drive, Auburn
- Placer County Clerk-Recorder's Office, 2954 Richardson Drive, Auburn
- Auburn Public Library, 350 Nevada Street, Auburn
- County website:

<http://www.placer.ca.gov/Departments/CommunityDevelopment/EnvCoordSvcs/EIR/BohemiaRetailProject.aspx>

Published in Sacramento Bee on Wednesday, June 16, 2010

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VIA EMAIL AND U.S. MAIL

Placer County Planning Commission
3091 County Center Drive Suite 140
Auburn, CA 95603

Re: Bohemia Retail Project (PEIR T20080235/State Clearinghouse # 2001042086)

Dear Commissioners:

My law firm represents the Mountain Shadows Homeowners Association ("Association"), the homeowners association for Phase Three of Country Club Estates, which is the residential neighborhood served by Canal Street adjacent to the proposed Bohemia Retail Project ("Project") near Auburn, California. As demonstrated by the Final Environmental Impact Report ("Final EIR") for the proposed Project, and explained further below, the Planning Commission should approve the No Canal Street Access Alternative because the environmental impacts associated with this alternative would be less than the proposed Project and access from State Route 49 would adequately serve the proposed Project.

On June 16, 2010, the County released the Final EIR. In response to concerns raised at the public hearing for the Draft EIR, the Final EIR includes additional evaluation of the No Canal Street Access Alternative, a project alternative that would prohibit public access from Canal Street and continue to allow emergency access from Canal Street to the proposed Project site. (Final EIR, § 1.4, p. 1-6.) The initial evaluation showed that the No Canal Street Access Alternative would result in fewer land use and noise impacts by eliminating the incompatibility between heavy traffic congestion on Canal Street and the adjacent residential neighborhood. (Final EIR, § 1.4, pp. 1-9, 1-14 to 1-15.) Additionally, the developer of the proposed Project has agreed to implement the No Canal Street Access Alternative if the County agrees to this alternative and access on State Route 49 can successfully operate. (Attachment 1, Auburn Journal, April 2, 2010, Paid Advertisement from Steve Cavolt, Column 3, ¶ 2.)

With regard to traffic impacts, the Final EIR concludes that choosing the No Canal Street Access Alternative would not result in any significant traffic impacts to State Route 49 and "impacts related to transportation and circulation under this alternative would be similar to the proposed project." (Final EIR, § 1.4, p. 1-12.) In fact, prohibiting a secondary access approach on Canal Street would

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actually result in fewer traffic impacts. As noted by both the Draft and Final EIRs, the first CEQA significance criterion for traffic impacts is:

An increase in traffic which may be substantial in relation to the existing and/or planned future year traffic load and capacity of the roadway system (**i.e. result in a substantial increase in either the number of vehicle trips**, the volume to capacity ratio on roads, or congestion at intersections).

(Draft EIR, § 8.3, p. 8-22, emphasis added; *see also* Final EIR, § 1.4, pp. 1-10 to 1-12; CEQA Guidelines Appendix G.) Under the discount club store option, there would be **904 new daily vehicle trips on Canal Street**. Under the discount superstore option, there would be **1100 new daily vehicle trips on Canal Street**. The No Canal Street Access Alternative would eliminate the negative traffic impacts that this substantial increase in daily vehicle trips would have on current users of Canal Street and the adjacent residential neighborhood served by Canal Street. In light of this additional evaluation, the Association urges the Planning Commission to approve the No Canal Street Access Alternative.

With regard to air quality impacts, the Final EIR concludes that choosing the No Canal Street Access Alternative would result in slightly greater air quality impacts due to a slight increase in carbon monoxide ("CO") emissions, but CO emissions would still remain at a less than significant level. (Final EIR, § 1.4, p. 1-13.) However, no support is provided for the conclusion that CO emissions would slightly increase due to increased congestion on State Route 49 under the No Canal Street Access Alternative. Instead, increased CO emissions from increased congestion on State Route 49 would be balanced out by a decrease in congestion at the Luther Road/Canal Street intersection under the No Canal Street Access Alternative. Further, the No Canal Street Access Alternative would reduce exposure of the adjacent residential neighborhood to air pollutants being emitted by Project-related traffic on Canal Street.

In conclusion, the Planning Commission should approve the No Canal Street Access Alternative because the No Canal Street Access Alternative has fewer environmental impacts than the proposed Project.

Very truly yours,

DOWNEY BRAND LLP



Patrick G. Mitchell

1084225.1

cc: Supervisor Holmes
Supervisor Weygandt
Dick McClellan (Mountain Shadows Homeowners Association)

334

Attachment 1

235

THIS IS A PAID ADVERTISEMENT

Bohemia Retail Project:

Let's get the facts straight!

There have been plenty of articles written in the Auburn Journal and letters to the editor from both sides. The developer on his own accord had a town hall-style information meeting for the neighbors. And yet there is still plenty of misinformation and all kinds of false statements being made about this project. So I am going to state the "facts" for all to see.

History of the Site

- The current site was operated as the Bohemia Lumber Mill, rip saws and wood chippers ran 24 hours a day for many years until 1984. In 1984 when the lumber mill closed and the property was scrapped, it was rezoned for commercial shopping center use. The Fiddler Green and other residential subdivisions in the area were started in 1976 while the Bohemia Lumber Mill was in full operation. Fiddler Green and the other subdivisions were mostly built out by 1984. The Bohemia property has been zoned commercial shopping center use for 26 years. The developer, Jim Conkey, acquired the property 23 years ago in 1987 with the current shopping center zoning.

- The site has been zoned for retail use for 26 years and has been identified and zoned for retail use in every Placer County Land Use Plan that affects this property. The land-use plans are the Placer County General Plan, the Auburn-Bowman Community Plan and the Auburn Bowman Redevelopment Agency Plan. All of these plans had dozens of public hearings that discussed the use and zoning of the Bohemia Property.

- The Auburn-Bowman Plan was adopted in 1994 and had many public hearings that went on for years. During all of these public hearings there was never any opposition on the part of the neighbors or the neighborhood associations to change the zoning; the use of the Bohemia property or the access to Canal Street!

Neighborhood / Personal Responsibility

- A number of years ago I was looking at buying a house in Rocklin; there was a large vacant lot behind the house that I was going to buy. I asked my realtor what was going to happen with that vacant property and she wasn't sure, so I took it upon myself to go to the city and find out. The city said it was zoned commercial shopping center and that a fast-food chain was also looking at one of the lots. I had a choice to make, do I go ahead and buy the house knowing that there could be a shopping center built behind me or do I find something else. I made the choice to buy the house and it then became my issue if something got built. It did get built and I sold the house a few years later and made a profit.

- The point being, the Bohemia property has been zoned commercial shopping center use for 26 years! It had dozens of public-land use hearings and is 18.7 acres of vacant land that fronts Canal Street with Highway 49 on the opposite side. *Personal responsibility* is at the forefront of this issue. If you are buying a house next to a large vacant piece of property such as this, it is *your responsibility* to investigate what could be developed there. If you already live next to a piece of property such as this and you feel strongly about the use and how it could affect you then it is *your responsibility* to voice your concerns at the public hearings on the land use plans during the public hearing process. The neighbors did not voice their concerns!

- The developer's *responsibility* was to make sure the property he was buying had the correct zoning for the intended use and it did. Therefore he did his job of taking personal responsibility!

Land Use & Private Property Rights

- Private property rights are the basic and essential freedoms bestowed to all Americans by the Constitution of the United States. What this means is that each private property owner, whether it be the neighbors or the developer of the commercial property, has a right to their individual property and the use thereof which is determined by the specific zoning given to each parcel by the planning commission and board of supervisors.

- Jim Conkey, the developer, is a private property owner and he purchased the Bohemia property 23 years ago with the shopping center zoning. Mr. Conkey's property went through numerous public-land use plans over the last 26 years and not once did the zoning ever change from shopping center type of use. His private property rights are no different nor better or worse than any other private property owner in the neighboring area. Therefore

according to the zoning, land-use plans and Constitution, he has every right to develop his property just like you or I would.

- Land-use plans are designed and created to manage growth in a unified way for the greater good of all in the community. The Bohemia project has endorsement of the Placer County Contractors Association board members and thousands of people in the surrounding area. The Redevelopment Agency, the Planning Commission and Board of Supervisors over the last 26 years have created a general plan and community plan for this area which encompasses the Bohemia project. The real question now becomes do we follow the guidelines of these public policy land-use plans or do we allow land-use planning to be taken over (as proposed by some) by "mob rule" and dictate to the Planning Commission and Board of Supervisor's land-use decisions? I think we all know the answer to that question. "Mob rule" has never been the answer. Again, the zoning and land-use guidelines for this property must prevail according to the general plan, community plan and redevelopment agency plan as set forth by the Planning Commission, Board of Supervisors and private property rights as stated in the Constitution.

Neighbors say that retail should not be next to or interact with Residential Property

- According to industry sources it is estimated that more than 70% of shopping centers in the U.S. about 1/3 or have direct interaction with the surrounding residential neighborhoods. A few examples are the Bird Cage Marketplace and Sunrise Mall in Citrus Heights, Arden Fair Mall in Sacramento - all sprawling, multi-story centers. Our own Staples in Auburn abuts residential property and has direct access into a residential area. Each of these and the vast majority of centers abut residential property and in many cases have direct street access to the surrounding neighborhoods. History has proven that these relationships work very well. The portion of the Auburn Bowman Community Plan (of which the Bohemia project is part of) shows that zoned commercial property abuts residential property in every case. (see Bohemia EIR regarding land use on page 4-4, figure 4-1).

- Neighbors say that this project is in a purely residential neighborhood and that is *entirely false*! The fact is approximately 74% of the Bohemia project is surrounded by industrial property, commercial property, railroad tracks and Canal Street (see Auburn Bowman Community Plan). The actual number of homes that abut Bohemia is 10 and 2 of those just barely.

Neighbors say that the impacts of this project are too much for the area

- We heard many of those same arguments when Target and Home Depot came to town. Many neighbors showed up at the hearings on those projects extremely upset and visibly - sometimes violently - opposed to those projects. The Auburn Home Depot is one of the company's most successful stores. And all the doomsday predictions of traffic gridlock, accidents, death, destruction of the community and destruction of small businesses never happened!

- Some have raised concerns over noise. The front of the building faces Highway 49, the back faces Canal Street and one side faces the subdivision. There will be 6- and 8-foot architectural sound walls with an abundance of landscaping to buffer any noise from the street. Additionally, the developer has required that delivery trucks will not be allowed to sit and idle their engines while they load or unload merchandise.

Neighborhood Traffic Issues - They want Canal Street access closed and no signal at Canal and Luther

- One of the first things that the developer did for the neighbors was to agree to a condition that no commercial truck traffic would be allowed onto Canal Street for any reason whatsoever in regards to this project. Other false information being talked and written about is the amount of additional vehicle traffic onto Canal Street which needs clarification as well. Under the discount membership club

scenario of the Bohemia EIR table 8.7 it states that 904 new vehicle trips on Canal Street would be created to and from the shopping center. These trips include the immediate neighbors' trips and trips from neighborhoods up Luther Road.

- Another thing that the developer did was to include a traffic signal at Canal and Luther Streets even though the traffic study indicated it was not necessary. He agreed to do it because that's what the neighbors wanted at the time. Now it appears they don't want it, so the developer has agreed not to do it.

- The biggest issue or seemingly the issue that has sparked the most controversy seems to be the vehicle access onto Canal Street. The question I have is, if the access onto Canal street was such a major issue, why then was there not any involvement by the neighbors in all the public hearings that addressed all the issues; zoning, land use and access onto Canal street? Again, a total lack of *personal responsibility* in the public hearing process. This is seemingly the biggest issue between the developer and the neighbors. Canal Street is a public street owned and maintained by Placer County. The neighbors don't own it, neither does PG&E, and like it or not, the developer has the same rights to Canal Street as the neighbors and PG&E. The neighbors drive their cars and trucks on Canal street and so does PG&E, and that includes trucks and other large commercial vehicles. Conversely, the developer would consider the closing of Canal Street if the access on Highway 49 can operate successfully, and if Placer County agrees.

Bohemia Project - Benefits to the Community

- One of the greatest benefits to the Auburn community especially in this economic climate is the creation of jobs and more jobs to local residents. According to Coetco, one of the proposed users, 350 full- and part-time jobs will be created. And just like when Home Depot opened, hundreds of people will be standing in line waiting to apply for these jobs. And hundreds of construction and related jobs will also be created with the development of the Bohemia project.

- The Bohemia Retail Project is a \$25-30 million dollar construction project which this community certainly needs. Why, again jobs and it keeps money in the community, stops sales tax leakage to other communities and generates over \$1.1 million dollars annually in tax revenue for Placer County. It also creates more affordable shopping opportunities thereby stretching the value of your dollar.

- There are many communities, including Auburn, that have marketing efforts that say "Think Local First". Several reasons to shop local are: "re-circulate more money in the local community" and "shopping local saves consumers money on fuel costs". This project does that and more; it will reduce the environmental impact by reducing the number of vehicles that travel down to Roseville and Rocklin thereby saving fuel and reducing emissions, which save the consumer time and money.

- Another benefit to the community is that people will travel from other communities such as: Grass Valley, Nevada City, Colfax, Weimar, Lake of the Pines and other surrounding areas to shop at the Bohemia Retail Center and spend money in our community. And once they are here they will end up doing more shopping in our community; filling their gas tanks at local gas stations and staying for lunch or dinner creating more business for the local restaurants.

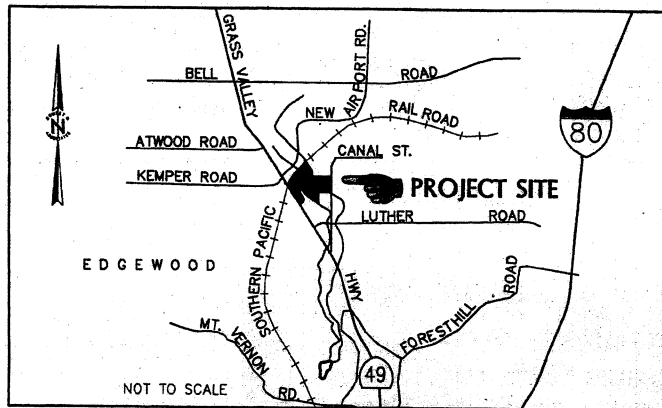
- The other benefit in getting the Bohemia Retail Center built is that it will act as an "anchor tenant" to help get the mostly vacant Auburn Plaza next door leased. And as Dr. Bill Kirby, Auburn City Council member, said in an online comment on 2-09-10 "And don't think that Trader Joe's is off the table either" and I totally agree with Dr. Kirby. Trader Joe's had looked at the Auburn Plaza last year, but there was no anchor tenant. Therefore, with the Bohemia project, it is entirely possible that we could see Trader Joe's and other tenants taking another look at the Auburn Plaza. Obviously that would be another great benefit for local consumers and the local economy as well!

The bottom line is that the Bohemia Retail Project is rock solid in the benefits that it brings to the Auburn community! And the developer according to the zoning, land-use plans and Constitution, has every right to develop his property just like you or I would if we owned the property!

If you have questions or comments, please email me at the address shown below.

THIS AD PAID FOR BY:

Steve Cavolt
Project Coordinator
Bohemia Properties, LLC
scavolt@gmail.com



ALLIANCE for the PROTECTION of the AUBURN COMMUNITY ENVIRONMENT
P.O. BOX 4951 AUBURN, CALIFORNIA 95604-4951 www.APACE2010.org

Duplicate
not a signature

Date: June 25, 2010

RECEIVED

JUN 24 2010

CLERK OF THE
BOARD OF SUPERVISORS

To: Rick Helman, Chief
Office of Transportation Planning -- East
Department of Transportation

Subj.: Bohemia Retail Project

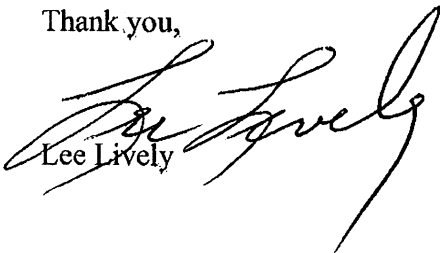
Dear Sir:

I read your March 4 letter to the Planning Commission. You raised the same issues that troubled me. I am sure that you are now examining the Final EIR of the subject project, as am I.

I note that Placer County has denied the use of the Canal Street Secondary Access to the project. Therefore, a 15% increase in traffic will occur at the Primary Access: SR 49 / Hulbert Way intersection. As you know, a casual observer can attest that the intersection SR 49 / Luther Rd is problematic. A 15% increase in traffic at the already congested area of SR 49 will result in a new significant impact.

I am anxious to review your comments when they are submitted to the Planning Commission.

Thank you,


Lee Lively

CC: Placer County Board of Supervisors ✓

Placer County Planning Commission.

DATE: 6/30/10 VIA EMAIL
☒ Board of Supervisors - 5
☐ County Executive Office
☐ County Counsel
☐ Mike Boyle
☐ Planning

HAND DELIVERED

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BOARD OF SUPERVISORS			
5 BOS Rec'd	X	AMB	X
Other	TS	COB	X
JUN 24 2010			
Sup D1	Sup D1	Aide D1	Aide D4
Sup D2	Sup D5	Aide D2	Aide D5
Sup D3		Aide D3	X * X

Mission Statement: To strengthen our community's economic vitality while preserving the charm of our Auburn community. We oppose commercial development that result in increased economic blight, increased negative environmental effects and the decline in quality of life

337

ALLIANCE for the PROTECTION of the AUBURN COMMUNITY ENVIRONMENT

P.O. BOX 4951 AUBURN, CALIFORNIA 95604-4951 **www.APACE2010.org**

Date: June 25, 2010

To: Environmental Coordination Services

Community Development Resource Agency

Subj.: Bohemia Retail Project

DATE: 6/25/10 (via email)

☒ Board of Supervisors - 5

☒ County Executive Office

☒ County Counsel

☐ Mike Boyle

☐ Planning

RECEIVED

JUN 24 2010

CLERK OF THE
BOARD OF SUPERVISORS

The responses found in the FEIR reflect the same cavalier tactics found in the DEIR where every issue is deemed to be "*less than significant*." It is astonishing that our planning department would produce a document of such poor quality.

Although, the number and magnitude of the FEIR inadequacies are overwhelming; I comment upon only one of the failures of the FEIR.

1.5 RECIRCULATION

A. The DEIR traffic studies for option 1 and 2 of the proposed project are bogus, as explained in comments designated as 150-13 thru 150-21 of the FEIR.

B. 15% increase in traffic will occur at the Primary Access: SR 49 / Hubert Way intersection.

C. A casual observer can attest that the intersection SR 49 / Luther Rd is a congested Disaster. Caltrans agrees.

D. A 15% increase in traffic at the already congested area of SR 49 will result in a new significant impact.

E. Text revisions of the FEIR do not provide the substantial evidence to support the claim that the 15% increase is not great enough to create significant impacts. The TIAR data presented in Appendix A of the FEIR is not sufficient information. Conclusions reached when unsupported by factual information will not suffice.

F. The DEIR and FEIR deprive the public of a meaningful opportunity for informed comment upon a substantial adverse environmental effect of the project.

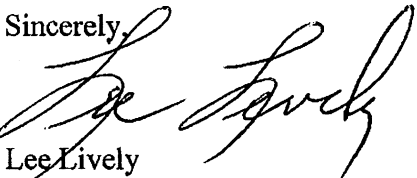
Therefore, in accordance with CEQA, the EIR is to be corrected and re-circulated.

The preceding comments are offered as a civic duty to assist in the preparation of a public document.

Now; I urge all Placer County officials, in accord with the trust placed on your office, to stand in unison in opposition to this Wal-Mart proposal. Wal-Mart is damned around the world for many good and sufficient reasons. The damage by Wal-Mart to our local economy can be predicted by the historical record of many communities similar to ours.

Do not be a part of the "unidentified occupant" pretense." Do not be deceived by the illusion of more jobs and greater revenue. Be a good neighbor.

Sincerely,



Lee Lively

HAND DELIVERED

CC: North Auburn Municipal Advisory Council

Placer County Board of Supervisors

RECEIVED							
BOARD OF SUPERVISORS							
3 BCOS Rec'd		X		MIB		X	
Other		TS		CIB		X	
<div style="border: 1px solid black; padding: 10px; text-align: center;">JUN 24 2010</div>							
Sup D1	Sup D2	Sup D3	Sup D4	Aide D1	Aide D2	Aide D3	Aide D4
						X	X

Mission Statement: To strengthen our community's economic vitality while preserving the charm of our Auburn community. We oppose commercial development that result in increased economic blight, increased negative environmental effects and the decline in quality of life

330

ALLIANCE for the PROTECTION of the AUBURN COMMUNITY ENVIRONMENT
P.O. BOX 4951 AUBURN, CALIFORNIA 95604-4951 www.APACE2010.org

Date: June 25, 2010

RECEIVED

To: Rick Helman, Chief
Office of Transportation Planning – East
Department of Transportation

JUN 24 2010

CDRA

Subj.: Bohemia Retail Project

Dear Sir:

I read your March 4 letter to the Planning Commission. You raised the same issues that troubled me. I am sure that you are now examining the Final EIR of the subject project, as am I.


I note that Placer County has denied the use of the Canal Street Secondary Access to the project. Therefore, a 15% increase in traffic will occur at the Primary Access: SR 49 / Hulbert Way intersection. As you know, a casual observer can attest that the intersection SR 49 / Luther Rd is problematic. A 15% increase in traffic at the already congested area of SR 49 will result in a new significant impact.

I am anxious to review your comments when they are submitted to the Planning Commission.

Thank you,

Lee Lively

CC: Placer County Board of Supervisors

Placer County Planning Commission. 

Alfa Omega Associates

Management Consulting • Public Relations • Publicity

Specializing in Environmental Impact Reports and CEQA

P.O. Box 7171 • Auburn, CA 95604-7171

Tel/Fax: 530-888-1523 • Cell: 530-308-2689

E-mail: drdalesmith@aoaconsult.net

Dr. Dale Smith, H.H.D., General Manager

Tuesday, June 29, 2010

Michael Johnson, AICP - Email - MJohnson@placer.ca.gov and USPS
Email - Supervisor Jim Holmes - bos@placer.ca.gov and USPS

SUBJECT: CONDITIONAL USE PERMIT (PCPA 20080157)/ MINOR USE PERMIT (PMPA 20100058) BOHEMIA RETAIL PROJECT AND OFF-SITE SIGN.
FINAL ENVIRONMENTAL IMPACT REPORT (FEIR 20080235)/ CATEGORICAL EXEMPTION SUPERVISORIAL DISTRICT 3 (HOLMES)

Notice is hereby given that the Placer County Planning Commission will conduct a public hearing, on the date and time noted above, to consider a request from Bohemia Properties LLC, for a Conditional Use Permit to allow for a 155,000 square-foot retail building and accessory nine-pump fueling station to be constructed on the site of the former Bohemia Lumber Company. The subject property, Assessor's Parcel Numbers 052-1 02-01 2, 052-1 02-01 3, 052-1 02-01 7, and 052-1 02-053, comprise 18.6 acres, are currently zoned CPD-Dc (Commercial Planned Development, combining Design Scenic Corridor)

The Planning Commission will also consider a request for a Minor Use Permit from the same applicant, for an off-site sign on Assessor's Parcel Number 052-102-056 which comprise 9.8 acres, is zoned CPD-Dc and is located on the east side of State Route 49 at its intersection with Hulbert Way. The off-site sign would direct State Route 49 traffic east onto Hulbert Way and up to the proposed Bohemia Project site. The Planning Commission will consider certification of a Final Environmental Impact Report for the Bohemia Retail project and a finding of a Categorical Exemption, Section 18.36.050, Class 3 - New construction or conversion of small structures - Placer County Environmental Review Ordinance (CEQA Guidelines Section 15303) for the off-site sign. The Planning Department contact for the above project

Alfa Omega Associates is unalterably opposed to the construction of this sign. This will set a precedent for all of Placer County on hundreds of locations on many roads and highways like Highway 49. In particular we object strenuously to the attempt by J.R. Conkey to sneak this into the process through this notice listed above **which was undated**. AOA does not believe that this sign project fits into a Categorical Exemption, which is a ready made legal case to move to set this whole project aside.

The granting of this sign will be a very special and extremely expensive give away by Placer County to a private business, and is certainly not in the best interest of all the businesses up and down Highway 49 that do not have such a special privilege. It should not be granted.

/s/ Dale Smith

Dale Smith, H.H.D. Alfa Omega Associates

Kathi Heckert

From: Nicole Hagmaier on behalf of Placer County Planning
Sent: Wednesday, June 30, 2010 10:11 AM
To: Gerry Haas; Michael Wells; Kathi Heckert
Subject: FW: AOA OPPOSTION TO BOHEMIA SIGN ON HEY 49
Attachments: AOA Email Filing on Bohema Sign & Cagegorical Exempt 6-29.10.doc

FYI

Thank you,
Nicole
Ext. 3117

From: Dr Dale Smith [mailto:drdalesmith@aoaconsult.net]
Sent: Tuesday, June 29, 2010 4:06 PM
To: Placer County Planning; Placer County Board of Supervisors
Subject: AOA OPPOSTION TO BOHEMIA SIGN ON HEY 49

Attached is a letter addressed to both of you about this project.

This notice only reached me late yesterday and I have been out of my office most of the day.

This is one element of this horrible project that should be killed immediately, because as I said in my letter, it is tailor made for a successful legal case to kill the whole project, which, in my opinion would be far better for all the people of North Auburn and 20 milds in every direction.

THINK 10,000 NEW TRIPS A DAY ON HIGHWAY 49

Dr. Dale Smith

Kathi Heckert

From: Shirlee Herrington
Sent: Wednesday, June 30, 2010 3:13 PM
To: Kathi Heckert
Subject: RE: Bohemia Correspondence rcvd 063010

FM

*Thank you,
Shirlee*

~~~~~  
Shirlee L. Herrington  
Executive Secretary  
Placer County Planning Department  
Community Development Resource Agency  
3091 County Center Drive, Suite #140  
Auburn, CA 95603  
(530) 745-3088 - PHN  
(530) 745-3080 - FAX  
[sherring@placer.ca.gov](mailto:sherring@placer.ca.gov)  
~~~~~

From: Gina Fleming
Sent: Wednesday, June 30, 2010 2:28 PM
To: Ann Holman; Anthony La Bouff; Beverly Roberts; Brian Jagger; Cheryl Shakro; Gina Fleming; Jennifer Montgomery; Jennifer Pereira; Jim Holmes; Kirk Uhler; Linda Brown; Melinda Harrell; Michael Johnson; Mike Boyle; Pat Malberg; Robert Weygandt; Rocky Rockholm; Ruth Alves; Shirlee Herrington; Steve Kastan; Teri Sayad-Ivaldi; Tom Miller; Vicki Roush
Subject: Bohemia Correspondence rcvd 063010

From: Dr Dale Smith [mailto:drdalesmith@aoaconsult.net]
Sent: Wednesday, June 30, 2010 12:27 PM
To: Placer County Planning; Placer County Board of Supervisors
Cc: Placer County Board of Supervisors; Jennifer Montgomery
Subject: A second, more detailed letter of the Bohemia Project
Importance: High

Gentlemen, yesterday I sent out a letter in a very big hurry because the day was nearly over.

Today, I have spent a lot more time to write a more comprehensive document for the Administrative Record, and also to try to obtain some critical answers quickly, before the upcoming PC Planning Commission Hearing of July 8, 2010.

It is also my intention as the Cc: list shows to give this issue wider circulation in the Community, because I doubt that this proposed action by Placer County is correct, and I hope I have made that position clear in this letter.

By-in-large, I have not been very involved in the Bohemia project because other clients I have in other Counties keep me very busy right now.

However, do not think that I do not care, because if that project was wrong the first time and the Judges ruled that way, then it is a hundred times more wrong this time.

Just try to visulize 10,000 MORE TRIPS A DAY INTO THAT AREA OFF OF HIGHWAY 49. It was named Blood Alley MANY YEARS AGO, LONG BEFORE I MOVED TO AUBURN, and if it was then, what is it now?

Still is BLOOD ALLEY ONLY MORE BLOOD

It seems like it is a matter of who will have that blood on their hands.

Dale Smith

Gina

Gina Fleming, Senior Board Clerk
Placer County Clerk of the Board of Supervisors
175 Fulweiler Ave Rm #101
Auburn Ca 95603
(530) 889-4020
(530) 889-4099 FAX

Alfa Omega Associates

Management Consulting • Public Relations • Publicity

P.O. Box 7171 • Auburn, CA 95604-7171

Tel/Fax: 530-888-1523 • Cell: 530-308-2689

E-mail: drdalesmith@aoaconsult.net

Dr. Dale Smith, H.H.D., General Manager

Wednesday, June 30, 2010

Michael Johnson, AICP - Email - MJohnson@placer.ca.gov and USPS Confirmation Email - Supervisor Jim Holmes - bos@placer.ca.gov and USPS Confirmation

SUBJECT: CONDITIONAL USE PERMIT (PCPA 20080157)/ MINOR USE PERMIT (PMPA 20100058) BOHEMIA RETAIL PROJECT AND OFF-SITE SIGN.
FINAL ENVIRONMENTAL IMPACT REPORT (FEIR 20080235)/ CATEGORICAL EXEMPTION. SUPERVISORIAL DISTRICT 3 (HOLMES)

→ Further to my letter of 6-29-10 sent by email and also enclosed in the USPS letter, I wish to ask further questions about several items, seeking clarification on what was contained in that Notice which stated:

Notice is hereby given that the Placer County Planning Commission will conduct a public hearing, on the date and time noted above, to consider a request from Bohemia Properties LLC, for a Conditional Use Permit to allow for a 155,000 square-foot retail building and accessory nine-pump fueling station to be constructed on the site of the former Bohemia Lumber Company. The subject property, Assessor's Parcel Numbers 052-1 02-01 2, 052-1 02-01 3, 052-1 02-01 7, and 052-1 02-053, comprise 18.6 acres, are currently zoned CPD-Dc (Commercial Planned Development, combining Design Scenic Corridor)

While this obviously is a repeat of this issue which we have seen many times over, but what puzzles me is how at this very late date, can Placer County try to quietly sneak another very serious element into this process as found in the next paragraph.

The Planning Commission will also consider a request for a Minor Use Permit from the same applicant, **for an off-site sign on Assessor's Parcel Number 052-102-056** which comprise 9.8 acres, is zoned CPD-Dc and is located on the east side of State Route 49 at its intersection with Hulbert Way. The off-site sign would direct State Route 49 traffic east onto Hulbert Way and up to the proposed Bohemia Project site.

It has been my experience through a number of years representing various clients that Placer County is very careful about what signs it permits along roads and avenues such as Highway 49. Can you, Mr. Johnson, explain to me what has happened that this long standing policy which now seems to be thrown out the window for Mr. Conkey?

How will you justify this policy to the several hundred businesses up and down 49 that would love to have a County permit for a sign that would deliberately direct business to their location when it is not immediately on Highway 49? Especially those directly across from where this sign would be. A number of them have been fined through the years for even having an advertising sandwich board out in front of their property.

340

Alfa Omega Associates Letter to Michael J. Johnson - Conditional Use Permit
(Pcpa 20080157)L - Minor Use Permit (Pmpa 20100058) Bohemia Retail Project
And Off-Site Sign - A Major Placer County Policy Change - 6-30-10 - **2 of 2**

How will you justify this to the Placer County Board of Supervisors, charged with the final decision on this Bohemia project, for as you surely know, this matter will go to the Board regardless of the outcome at the Planning Commission?

As a Citizen of North Auburn, one who is thoroughly familiar with the Bohemia Property and the MANY Different projects that Jim Conkey has tried to ramrod through the Planning Process through these many years, I am vitally concerned about this very serious challenge to long standing laws and precedence in Placer County.

What makes Jim Conkey so special that he would be granted such a sign? Why is Placer County seemingly giving special consideration where none belongs? Where is the authority from any department in Placer County to honor such a totally out of the norm proposal?

The next paragraph of this Notice, which by the way does not have a date of issuance is the appearance, for as far as I know, in the process, the first time it has come forward at least on North Highway 49.

“The Planning Commission will consider certification of a Final Environmental Impact Report for the Bohemia Retail project **and a finding of a Categorical Exemption, Section 18.36.050, Class 3 - New construction or conversion of small structures - Placer County Environmental Review Ordinance (CEQA Guidelines Section 15303) for the off-site sign.** The Planning Department contact for the above project is Gerry Haas and can be reached at (530-745-3084.”

Please, Mr. Johnson, provide me with full details on what this “Categorical Exemption” statement means. Why is the County now asking for approval on a Categorical Exemption when the proponent has completed the Environmental Impact process, with both a DEIR and an FEIR? It seems somehow wrong that this should be put forward now outside of the public scrutiny which is exactly why the CEQA process takes place. This has the appearance of being disingenuous and dishonest, is it?

I repeat what I wrote in the letter yesterday. The granting of this sign will be a very special and extremely expensive give away by Placer County to a private business, and is certainly not in the best interest of all the businesses up and down Highway 49 that do not have such a special privilege. It should not be granted.

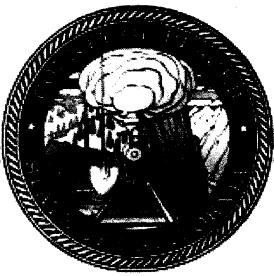
/s/ Dale Smith

Dale Smith, H.H.D. Alfa Omega Associates

Cc: Supervisors, Districts 1, 2, 4 & 5
APACE
North Auburn Businesses
Area Media

A fully signed original is sent by USPS for insertion into the Bohemia Administrative Record.

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COUNTY OF PLACER
Community Development Resource Agency

**ENVIRONMENTAL
COORDINATION
SERVICES**

Michael J. Johnson, AICP
Agency Director

MEMORANDUM

TO: Kathi Heckert, Commission Clerk

FROM: Maywan Krach, Community Development Technician

DATE: June 30, 2010

SUBJECT: **Bohemia Retail Project (PEIR T20080235), Public Comments on FEIR**

Please forward the following FEIR comment letters received to date to the Commissioners.

Attachments:

1. Bartley, Robert (2 pages)
2. Connolly, Victoria, Alliance for the Protection of the Auburn Community Environment (15 pages)
3. Fielder, Janice L (2 pages)
4. Knedel, Lari L & Terre A Davis (1 page)
5. Lewis, Donald E (1 page)
6. Lewis, Ellen A (1 page)
7. Lively, Lee, Alliance for the Protection of the Auburn Community Environment (1 page)
8. Mitchell, Patrick, Downey Brand (representing Mountain Shadows Homeowners Association) (4 pages)
9. Peterson, Suzanne (2 pages)
10. Stallman, Gloria (1 page)

PLACER COUNTY
DATE RECEIVED
JUN 30 2010
PLANNING
COMMISSION

EC 50

Robert Bartley
12856 Erin Drive
Auburn, CA 95603

Environmental Coordination Services
Community Development Resource Agency
3091 County Center Drive, Suite 190
Auburn, CA 95602

June 25, 2010

By e-mail to: cdraecs@placer.ca.gov

To Whom It May Concern:

With respect to the Final Environmental Impact Report's response to my letter of February 18, 2010 (Letter 3), I find that the response to my comments, particularly the comments on the socioeconomic factors (Comment 3.6), represents a failure to perform due diligence on the part of the lead agency.

As my wife, Cari Dawson Bartley, elaborated in a letter entered in the Planning Commission record April 22 and read before that body on that date:

As stated on page 16-5, the projections of retail growth were based on trends established between the years 2000 and 2006. Our country has been in a recession since that time, and it seems likely that these trends are no longer valid. In fact, the trend may be downward instead of upward in some cases.

Furthermore, the projections of population growth from the California Department of Finance, is from a study published in July of 2007. It is likely that these projections are no longer valid given the change in the economy over the past several years because population growth is often tied to economic growth.

Beyond that, the rate of population growth cited is county-wide and not applicable to Auburn. Lincoln, Roseville and Rocklin saw enormous growth a few years ago while Auburn did not. The numbers are skewed in favor of the developer.

The study subtracts a small amount in the growth rate for Auburn, but the growth rate used in projections (1.8%) is still more than double the growth rate experienced between 2000 and 2010.

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With all of these deficiencies, the rest of the studies involving supply and demand – and the ability of the local economy to recover from the impact of a superstore or club store – are overly optimistic and therefore invalid.

The county should perform its due diligence and demand a revision to all of the socio-economic data.

Yours truly,

Robert Bartley

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ECS

RECEIVED
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CDRA

June 25, 2010

To: Placer County Planning Department
From: Victoria Connolly (member of APACE-Alliance for the
Protection of the Auburn Community Environment) 223 Dairy Rd.
Auburn, CA 95603
Re; Inadequacy of EIR for Bohemia Project

This letter is to address the inadequacy of the EIR for the Bohemia Retail Project. There will be some attempt to discuss the technical aspects of the report, but by also considering issues from a common sense perspective, it may be useful to the decision makers.

Generally, it should be noted that the size of the EIR is over 2200 pages between the DEIR and FEIR documents. It needn't have been that large if the developer had proposed a mixed use development, which I (and APACE) support. Per the statements in the FEIR responses and elsewhere, mixed use has less significant environmental impacts. It is also the proposed use in the ABCP as informed by the ABCP EIR. The fact that the developer is attempting to fit a square peg into a round hole is the reason that such a voluminous aberrant (as in not according to norm) EIR had to be developed. It had to accommodate the vision of a supercenter or a discount club closely adjacent to residences on a difficult-to-develop lot. Environmental concerns still have not been adequately addressed and the many of the mitigations are inadequate.

The categories below will discuss why I believe the EIR to be inadequate per CEQA.

COMMENTS ADDRESSING EIR INADEQUACY

TRAFFIC

FEIR RESPONSE TO QUESTION #8 DEIR- The mitigations for the EIR completed for the ABC Plan are referred to, and note that it concludes that due to an increase in traffic, the impacts associated with traffic/circulation will be cumulatively significant and unmitigatable. However, it is noted just for the PLAN alone, and EIR mitigations for the ABCP (PAGE 3-31 of the EIR for the ABCP) indicates that as a mitigation, that they will attempt to mitigate traffic and circulation concerns for every project by for example creating a fee program...which is in fact the case. It seems a weak point to quote this as a response in the Bohemia EIR, to state that traffic concerns don't matter, when each EIR attempts to mitigate traffic individually.

Throughout the report many times it is stated that during the project construction phase and ongoing the additional number of trips of over 10000 D and E level traffic issues and will cause a significant impact at certain times of day, however, there will be no congestion. It states drivers find an easy flow. It is already congested at that intersection, and the conclusions that there will be no additional congestion at the intersection of Luther and 49, seems preposterous. Great concern is expressed over the impact on Bell

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EC5

and the New Airport area (appendix A FEIR), about which one can only wonder. At one point the average number of cars entering the site was said to be 138 per hour off 49 into the site. **I believe additional study would be required to verify no significant impact and thus the EIR for Bohemia is inadequate.**

SOCIAL/ECONOMIC/BLIGHT AND DECAY

The FEIR notes that while physical impacts are the issues for CEQA, a tracing of the cause and effect chain of project to physical changes caused by social and economic consequences of a project can be analyzed to come to a conclusion about blight and decay.

While the response to the commenters concerns is that that there would be closed businesses, it also states that the Auburn area hasn't traditionally suffered blight. Amazingly, the City of Auburn a few years ago commissioned a blight study and found many blighted areas. Are we to assume that the unincorporated part of Auburn does not have the same sort of degraded properties outside the city limits? In fact common sense and observation tells us it is worse.

While the EIR preparer notes figures for revenue have been revised to reflect 2010 figures, there is no change in the projection of the recovery period from the impact of closed businesses, it still being 5-10 years. The revenue for the county depending on Option 1 or Option 2 worst case scenario is approximately \$325,000, to \$550,000, dollars per year.

IT SHOULD BE OF GREAT CONCERN TO THE DECISION MAKERS THAT the highest sales tax revenue for the Sacramento Region for the year, reported in April 2010 was **Placerville. They did it with NO MALLS and NO BIG BOXES.** In addition the decision makers can take into account the issue of lowering of property values, and possible results of inverse condemnation lawsuits which have been passed onto the decision makers through the public comment process and their potential toll on county coffers, as well as the cost of defending a lawsuit should the project as proposed be approved.

Option 1- Range-\$453,000 if Discount Club if worst case scenario of siphoning off existing business

Option 2 Range: \$324,000 if Super center if worst case scenario of siphoning off existing business.

The drafters of the responses have ignored the point that Walmart/Sams operates in a vastly different manner than other stores. There is ample evidence which has been presented in the DEIR comments, DEIR appendix by Dr. Smith and by myself at an project agendaed meeting of the MAC and during public comment at the Planning

Commission, as well as studies given, pointing to the Wal-Mart effect and cost of doing business for a community that brings Wal-Mart to town. **The EIR is not adequate if it did not specifically analyze the socio economic effects of a Wal-Mart and loss of jobs, tax revenue and businesses, but merely analyzed an category.**

P 1-18 The FEIR writers conclude re Socio Economic issues that:

“The No Canal Street Access Alternative would not alter the proposed project’s conditions related to socio-economic impacts on the project site. Although the No Canal Street Access Alternative would impact existing businesses, the impacts would not result in urban decay. Urban decay is a compounding effect that can result from extended vacancy, deferred maintenance, and abandonment. The urban decay process generally takes several years to materialize fully and is reinforced by declining economic conditions in the broader market area. Urban Decay is generally not the result of a single property standing vacant for a short time in an otherwise vibrant market. The No Canal Street Access Alternative total retail sales would represent a fraction of the total Trade Area retail sales and up to 23 percent of the new retail demand in 2020. The new retail demand would exceed the retail sales volumes for all scenarios in all retail categories except Furnishings & Appliances and Building Materials and Farm Equipment. Existing retailers unable to compete with the No Canal Street Access Alternative would close, creating retail opportunities for new tenants that could compete for the unmet retail demand in other retail categories. Under the No Canal Street Access Alternative, construction of the proposed building would include the same square footage as the proposed project. Similar to the proposed project, the No Canal Street Access Alternative would not result in urban decay or other significant socio-economic impacts. Therefore, the No Canal Street Access Alternative would result in the same impact related to socio-economic impacts as compared to the proposed project. **THIS DOES NOT HAVE ANY BASIS IN A MARKET STUDY AND IS NOT BORNE OUT IN BY STUDIES ACROSS THE COUNTRY THAT CHRONICLE THE WAL-MART EFFECT AND THEIR PROPENSITY FOR LEAVING ONCE THEY HAVE DESTROYED A COMMUNITY LEAVING UPWARDS OF 300 EMPTY STORES ACROSS THE COUNTRY. EVIDENCE PRESENTED IN APX 3. and on the record by documentation.**

Regarding the FEIR Response to Letter # 34 pages 3-125-131

Question and CONCLUSION FOR SOCIO Economic effects- For \$324, 000 in additional revenue a year (not taking into account the above other lost revenue), is it wise to make the most environmentally and financially impacting choice? It seems it is the most obvious solution to pick the Mixed use project with 35 percent less commercial space, lower environmental impacts, and not give into the greedy grab for money by the developer, but rather balance the needs of the community with the needs of the developer.

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ECS

NOISE/EMISSIONS

Underscoring the fact that I have raised the issue of a need for a separate specific analysis in an on the record project agendaed meeting for a Walmart or Sams, as did other commenters to the DEIR, this fact is ignored. The EIR did not address the fact that many Wal-Mart's typically allow camping in their parking lots all night and also semi truckers, to camp all night. **Unless this is addressed and mitigated if necessary, the assessment of noise and emissions is not adequate.** See below re the noise barrier. APACE members and other members of the public, have pointed out that sound rises above a wall, especially when the terrain is shaped like an amphitheatre. Houses, buildings and walls are the barriers that are supposed to reduce the noise to the sensitive receptor areas which are only considered as back yards, not front yards, or inside a house with the windows opened. **THIS IS NOT AN ADEQUATE ANALYSIS OF NOISE IMPACT NOR ARE MITIGATIONS ADEQUATE.**

VISUAL

The EIR for the ABCP deals with the **Bohemia site itself.** (p 4-33 to 4-35). Of note are the following statements **which are contradicted by this project.**

APCP EIR 4-34-"The Community Plan proposes a **mix** of land uses **for this site** including residential, industrial, commercial, office professional and open space."

"Land Use Compatibility-Residential uses to the north and east are the key concerns relative to future land use conflicts. However residential uses and open space are provided at the residential interface except for a limited area of industrial storage which currently provides the PG & E Corporation yard access. Since the map of the site within the plan outlines the location of uses conceptually **only it will be important to maintain these buffering features to avoid land use compatibility impacts when development is proposed.**

Further projects proposed on the site will be reviewed for consistency with the Development Vision in the Plan. The Development Vision will assist in avoiding potential visual impacts to some degree by calling for the following features:

- Parking at the rear or side of buildings" –**PROJECT DOES NOT DO THIS**
- "Preservation of open space and vegetation between Canal St and Fiddler Green Canal along the canal, at the corner of Luther Rd and Highway 49 and along the proposed entry road off of Canal St." **PROJECT DOES NOT DO THIS**

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Community Design Policies

(18) Projects within the Plan area will comply with the Placer County Landscape Guidelines and PCDG as amended by the specific design guidelines contained in this Plan. Major elements of the DG include but are not limited to:

(a) Commercial buildings should be designated to include the following desirable elements:

- Richness of surface and texture
- Significant wall articulation (inset, canopies, wing walls, etc.)
- Roof overhangs
- Articulated mass and bulk

(b) Height and scale of new development should be compatible with that of surrounding development (*NOTE this would be industrial and residential*)

(c) Resource conservation should be incorporated into project design. These measures include but are not limited to energy and water conservation measures.

In addition the Community Design section calls for:

-Limits on night lighting;

A concern not addressed in the Development Vision is the potential for visual impacts related to views of rooftops from the upper terrace”

The ABCP EIR concludes that if these features above are implemented there would be a less than significant impact visually and in terms of land use compatibility. **THE CURRENT BIG BOX PROPOSAL DOES LITTLE OF THIS AND DOES NOT CONFORM TO THE ABOVE ABCP as written and intended. IN ADDITION, THE PLAN proposed a mix of land uses and open space.**

The barrier is going to be 6-8 feet with loading from 6 am to 12 am. (Read noise). When writers #120 raised the question about how the ABCP indicates that there should not be freeway type walls to separate neighborhoods, the EIR responders went to great length to respond about the nice trees and vines, albeit clear cutting the existing 2 plus acres of oaks. Even if there are nice trees in 10 years, the fact still remains that this amounts to “putting lipstick on a pig,” and does not conform to the ABC plan which indicates it wants to preserve neighborhoods and prevent walling off.

Throughout the response, the EIR writer repeatedly refers to zoning and buffering, indicating there will be buffer between residential and industrial “albeit” commercial. Other types of businesses with the zoning designation could be manufacturing,

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processing, auto sales storage service, heliports, transit stations and terminals The EIR writer cavalierly states a supercenter is more compatible. **This seems a matter of personal opinion.** When I've spoken to residents in the area, they would gladly take any of the other zoning options and note they moved there when it was a lumber mill and zoned industrial. (Maybe they wouldn't want a heliport, or processing plant however, the impact would likely be less frequent though more intense with those options and the others). The tree issue has been raised by Lari Knedel and she notes that PGE wires exist and PGE will not allow over 25 foot trees to grow. Indeed the photoshopped view of the future shows the trees growing right into the power lines. **THE EIR is inadequate, as it does not analyze other uses for the commercial property which could be more compatible, in an analytical manner, but rather makes a specific statement based on the writer's opinion.**

Within the greater Sacramento region, and generally everywhere else, **no supercenters or discount centers are built with such close proximity to residential neighborhoods.** (APACE has heard one in Connecticut). Attached are some satellite photos to illustrate the point, but any decision maker can check online by mapping a Walmart, Sams, Costco Lowes (which we are told by the EIR writers is unlikely) and looking at a satellite view. **The visual impact to the neighbors and the road travelers has not been adequately analyzed.**

CRIME

DEIR 13-6 states that according to the "will—serve letter" from the Placer County Sheriff's Dept, their ability to handle law enforcement needs generated by the proposed project would be dependent of on the BOS authorizing their funding needs. Therefore, without the additional personnel and equipment impacts related to law enforcement services would **be potentially significant".** *The mitigation reads, "...prior to the approval of Improvement Plans the applicant shall provide the DRC with proof of notification in the form of a written notice or letter of the proposed project to the Placer County Sheriff's Office."*

Crime Question for Decision Makers.- As any shoplifting incident or more serious crime involves at least one law enforcement responder, this impact would draw off resources which have already been indicated to be limited, and a potentially significant impact. **Is it all right just to inform the sheriff's office. Don't they have to respond and indicate they can cover additional crimes to truly assess the significance of the impact.** We have asked for a crime analysis between Roseville Costco and Wal-Mart's and are awaiting the response, this has been pending for 3 weeks, though promised. It is anticipated that Wal-Mart has much higher crime events requiring a response than a Costco or Lowes etc.

OTHER CONSIDERATIONS

In the EIR, the decision makers have been notified of their obligations under CEQA. However, in addition, pursuant to 15094, ample statements, and facts from over 120

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writers (including professional and public opinion), and many studies which are factual and done by experts that counter the conclusions reached in the EIR must be considered.

First and foremost the effects of a Wal-Mart development have been verified by many including The Labor Center at UC Berkeley and note the deleterious socio-economic effects caused by the company leading to store closures decay and blight. In addition, the decision makers are not bound entirely by CEQA but may take into account any facts and comment when making a decision about this project. For purposes of the record the decision makers will be notified on the record of the proofs in their possession which have been given to them either by hand, or during public comment at various meetings as well as during project agendized meetings. (Eg. May 26 2010 document by Victoria Connolly with attachments and Appendix 3 FEIR by Dr. Smith).

CEQA sections 15094

(c) In determining whether an effect will be adverse or beneficial, the lead agency shall consider the views held by members of the public in all areas affected as expressed in the whole record before the lead agency. Before requiring the preparation of an EIR, the lead agency must still determine whether environmental change itself might be substantial. (NOT DONE THOROUGHLY FOR SOCIO ECONOMIC EFFECTS LEADING TO DECAY/BLIGHT TAKING INTO ACCOUNT AMPLE EVIDENCE IN THE RECORD. INADEQUATE EIR ANALYSIS).

(e) Economic and social changes resulting from a project shall not be treated as significant effects on the environment. Economic or social changes may be used, however, to determine that a physical change shall be regarded as a significant effect on the environment. Where a physical change is caused by economic or social effects of a project, the physical change may be regarded as a significant effect in the same manner as any other physical change resulting from the project. Alternatively, economic and social effects of a physical change may be used to determine that the physical change is a significant effect on the environment. If the physical change causes adverse economic or social effects on people, those adverse effects may be used as a factor in determining whether the physical change is significant. For example, if a project would cause overcrowding of a public facility and the overcrowding causes an adverse effect on people, the overcrowding would be regarded as a significant effect. (AMPLE EVIDEDNCE WAS PROVIDED, FACTUAL IN NATURE, TO INDICATE THAT A HIGH LIKELIHOOD OF ENVIRONMENTAL IMPACTS WOULD ENSUE BASED ON THE CURRENT RECESSION, AND THE WALMART EFFECT ON COMMUNITES, as well as CHANGES TO THE NEIGHBORING RESIDENTS. INADEQUATE EIR ANALYSIS)

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(2) If the lead agency determines there is substantial evidence in the record that the project may have a significant effect on the environment but the lead agency determines that revisions in the project plans or proposals made by, or agreed to by, the applicant would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur and there is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment then a mitigated negative declaration shall be prepared. (LEAD AGENCY DID NOT TAKE INTO ACCOUNT THE AMPLE RECORD EVIDENCE THAT SPECIFIC AND CUMULATIVE IMPACTS WOULD OCCUR-PARTICULARLY SOCIO-ECONOMIC EFFECTS AS ABOVE)

(5) Argument, speculation, unsubstantiated opinion or narrative, or evidence that is clearly inaccurate or erroneous, or evidence that is not credible, shall not constitute substantial evidence. Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts. (MANY FACTS WERE IGNORED BY THE LEAD AGENCY IN ANALYZING MANY OF THE SPECIFIC ENVIRONMENTAL EFFECTS, ESPECIALLY SOCIO-ECONOMIC LEADING TO PHYSICAL CHANGES IN THE ENVIRONMENT. IN ADDITION, EIR WRITER ASSUMED THAT OTHER TYPES OF PROJECTS ALLOWED BY ZONING WOULD BE LESS ACCEPTABLE TO NEIGHBORS OF THE PROJECT SITE WITHOUT PROVIDING A FACTUAL BASIS FOR THE CONCLUSION, ie PERSONAL OPINION)

Conclusion: The EIR is inadequate pursuant to CEQA, and in addition it does not conform to the Auburn Bowman Community Plan.

Cc: Members of North Auburn MAC
Members of Placer County Planning Commission
Members of Placer County Board of Supervisors

Attachments:

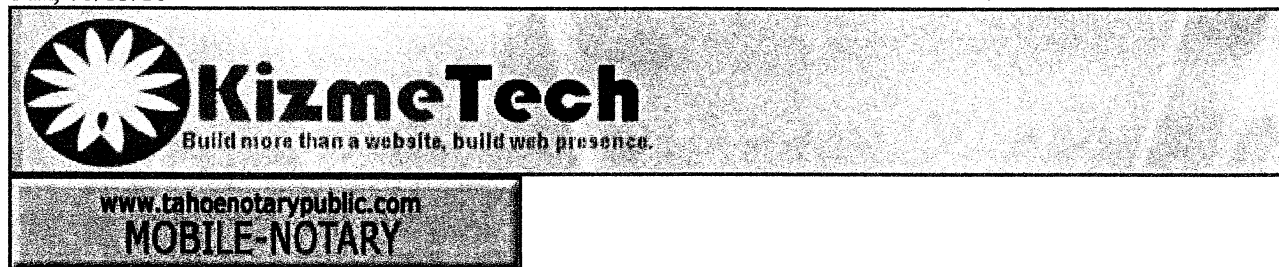
- 1, "Sales tax keeps Placerville financially solvent" Sac Bee May 15, 2010
2. Satellite views of Wal-Mart Supercenter-Antelope Sacramento, Costco Stanford Ranch Road Roseville; Walmart, Lead Hill Roseville; Sams/Wal-Mart Pleasant Grove Roseville
3. Facebook page showing fans against local WalMart in Auburn June 25, 2010

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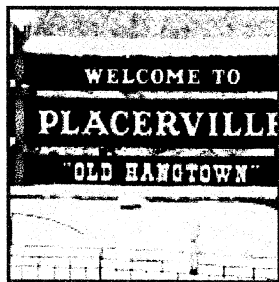
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Sales tax keeps Placerville financially solvent

Posted by admin in [News](#) on May 15th, 2010 | [no responses](#)



By Carlos Alcalá, Sacramento Bee

There's plenty of bustle on Placerville's Main Street, but it's a small-town kind of bustle, not the sort that suggests an economic giant.

Despite the quaintness of the old town, this city has the Sacramento region's highest per capita sales tax revenue – accomplished without the big new malls and auto centers of nearby economic behemoths Folsom and Roseville.

Based on a Bee analysis of sales tax revenue, Placerville's revenue for 2009-10 comes to \$280 for each man, woman and child in town.

[Read the whole story](#)

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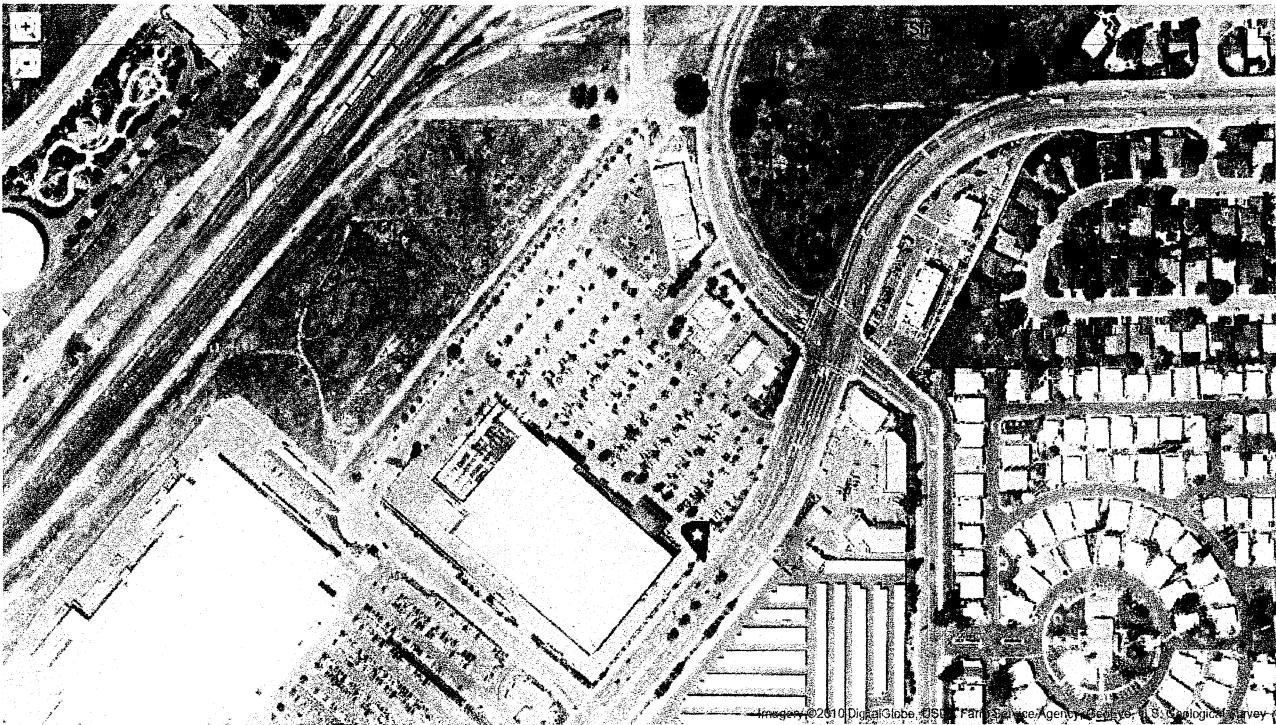
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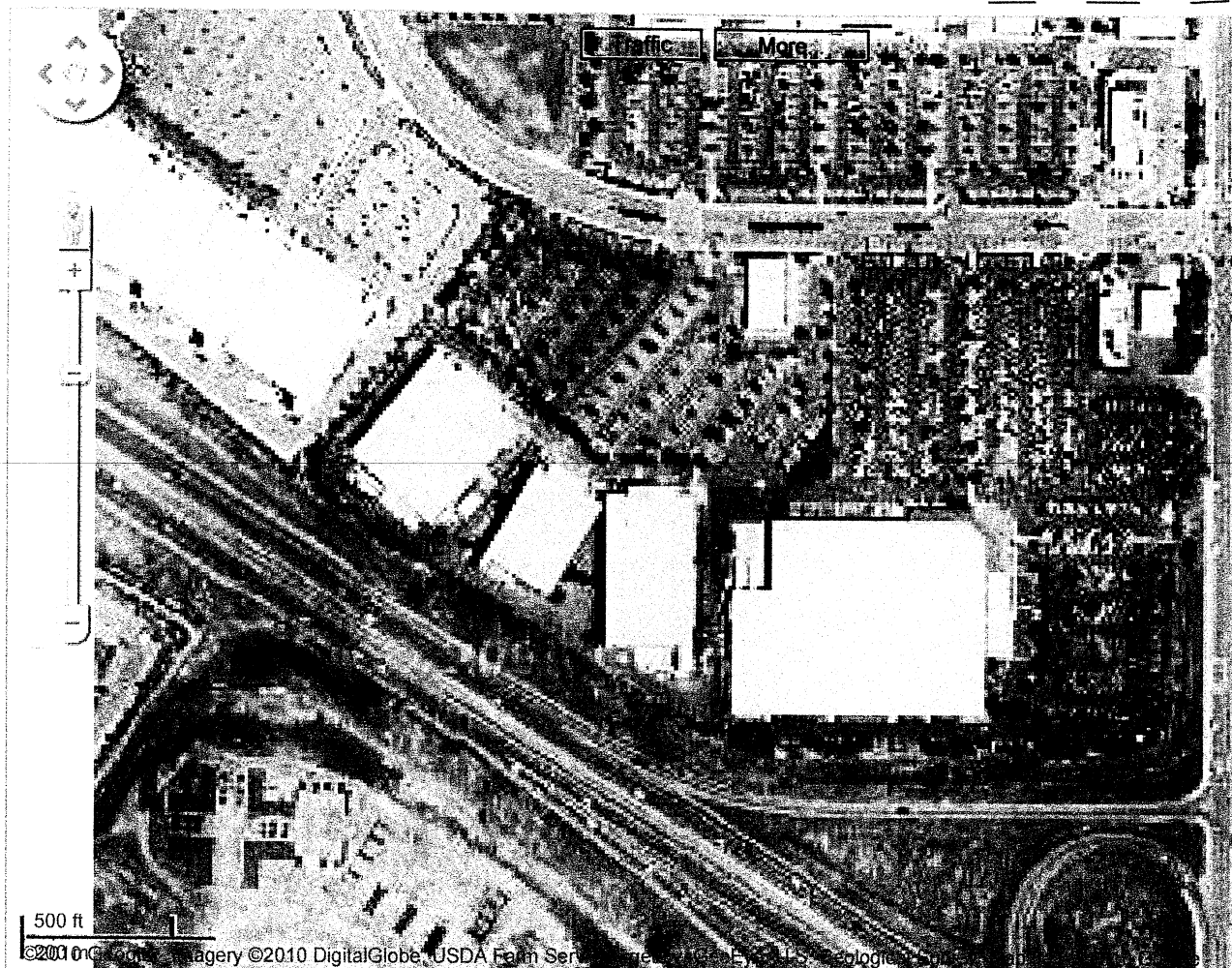
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
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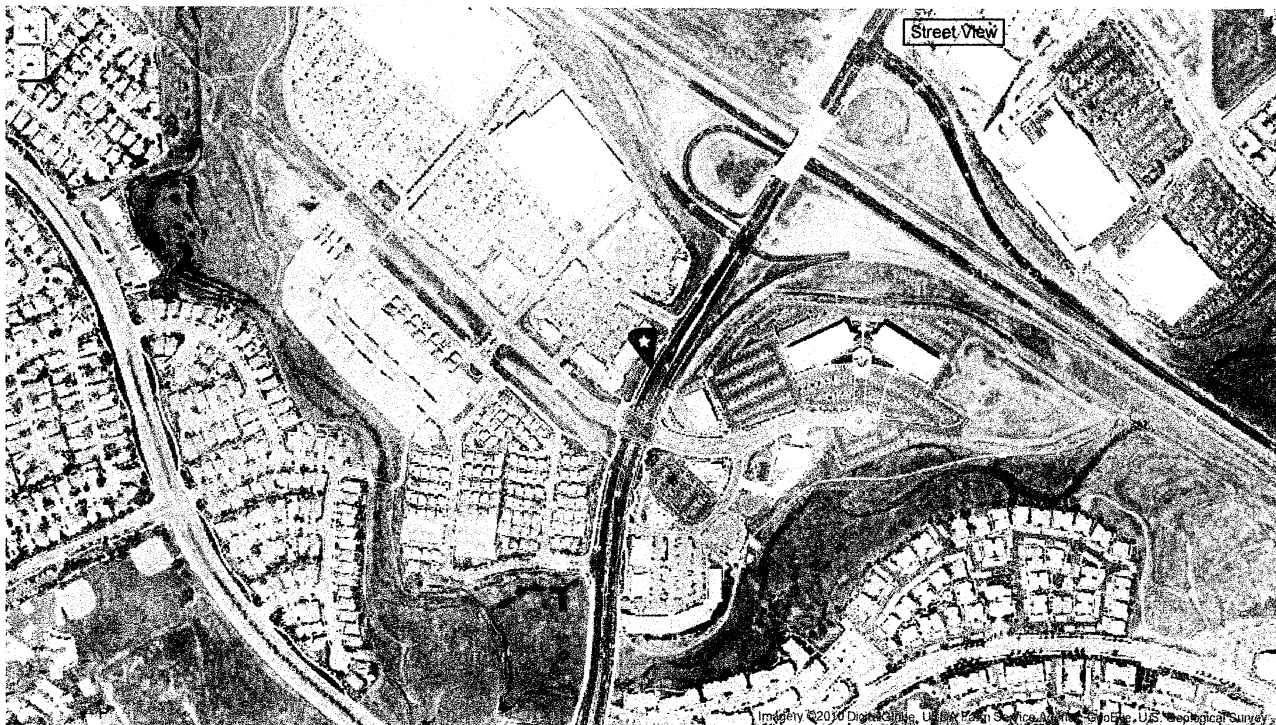
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Start Address (e.g. 123 Main St.)

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End: Walmart Supercenter

900 Pleasant Grove Blvd, Roseville, CA 95678

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AHZ
4/4



Invite People to Join

"Never doubt that a small group of thoughtful, committed citizens can change the world. Indeed it's the only thing that ever has." Margaret Mead, Anthropologist

Information

Category:

Organizations - Community Organizations

Description:

A new development is being proposed to build a probable Walmart Supercenter (a.k.a. The Bohemia Walmart Project) at the intersection of Highway 49 and Luther Road in Auburn. This could have enormously negative effects on our community which include:

- Massive increase of traffic on Highway 49
- Noise and light pollution
- Loss of revenue for local businesses
- Create more job losses
- Safety issues
- Less tax revenues for Placer County

Help stop this development which could have disastrous... (read more)

Privacy Type:

Open: All content is public.

Admins

Kelsey Johnson (Placer High) (creator)

Members

6 of 546 membersSee All



Photos

1 photoSee All



Links

3 of 6 linksSee All

Members

Sketchy crew!

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*PH 3
1/2*

Placer County California

5:54pm Jun 16

www.placer.ca.gov

12:30pm Jun 14

Wal-Mart :The High Cost of Low Prices (Part 1 of 11)

12:47pm Jun 3

Events

3 upcoming events [See All](#)

- Municipal Advisory Council Mee...
3091 County Center Drive
Tuesday, June 29 at 7:00pm
- Final Environmental Review Report
Thursday, July 1 at 11:00am
- Placer County Planning Commiss...
3091 County Center Drive
Thursday, July 8 at 10:00am

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Stop the Building of a WalMart in Auburn!

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AH 3

2/2

June 23, 2010

Environmental Coordination Services
Community Development Resource Agency
3091 County Center Drive, Suite 190
Auburn, CA 95602
pg. 1

RECEIVED

JUN 24 2010

ENVIRONMENTAL COORDINATION SERVICES

RE: Final EIR Bohemia Retail Project

To Whom It May Concern:

After attempting to read and understand the final EIR draft, I have two questions regarding the MMRP.

(1) Luther Road/Canal Street (Intersection #18) 8-3(b)

- * Signalize the intersection

If there shall be no Canal Street access - then why do we need this signal??

Wouldn't this result in more air pollutants for the residents in the mobile home park from stagnant cars waiting at the intersection?

(2) Cumulative Impact to regional air quality 18-(9)

18-9(h) In order to mitigate the project's contribution to long-term emission of pollutants, the applicant shall:

- 1. Participate in the Placer County Air Pollution District Off-site Mitigation Program by paying the equivalent amount of money, which is equal to the projects contribution of pollutants (ROG and NOX), which exceeds the cumulative threshold of 10 pounds per day. The estimated total amount of excessive ROG and NOX for this project is 9.87 tons. The estimated payment for the proposed project is \$141,141 based on \$14,300 per ton. Prior to the issuance of building permit, the actual amount to be paid shall be determined, per current California Air Resource Board guidelines;*
- 2. Participate in an off-site mitigation program, coordinated through the Placer County Air Pollution Control District, to offset the project's long-term emission of pollutants. Examples include participation in a "Biomass" program, retrofitting mobile sources (i.e. busses, heavy duty diesel equipment), or any other program*

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pg 2

June 23, 2010

Environmental Coordination Services
Community Development Resource Agency
3091 County Center Drive, Suite 190
Auburn, CA 95602

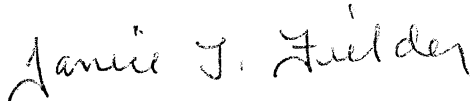
APCD. Any proposed off-site mitigation shall be located within the same region as the proposed project.

Does this mean that even if the project exceeds acceptable cumulative pollutant thresholds, it's acceptable if monies are received and off-site projects are implemented?

How does this help local residents? Are we less than significant?

Please consider impacts to surrounding neighborhoods when making your decisions regarding this project.

Respectively,

A handwritten signature in cursive script that reads "Janice L. Fielder".

Janice L. Fielder

265
EB

Environmental Coordination Services
Placer County
Community Development Resource Agency
3091 County Center Drive, Suite 190
Auburn, CA 95603

RECEIVED

June 25, 2010

JUN 29 2010

ENVIRONMENTAL COORDINATION SERVICES

COPY

SENT VIA HAND DELIVERY AND CERTIFIED MAIL

RE: Bohemia Retail Project (PEIR T20080235 / State Clearinghouse #2001042086)

Members of the Placer County Planning Commission:

We continue to have several serious concerns regarding the development of the Bohemia Retail Project as presented in the Final EIR and in response to our comment letter to the Draft EIR. Responses submitted by the consultants don't consider we are not attorneys, engineers, or experts in EIRs and traffic studies, as the responses are complex, difficult to understand, & so complicated in referencing that they are indiscernible.

Our main concerns are:

1. Lack of identified tenant(s)

Not identifying the tenant(s) eliminates our rights as citizens to fully evaluate the impact this project will have on our neighborhood.

2. Lack of consistency with regard to the Auburn / Bowman Community Plan

Several comments have been previously submitted, but responses are not discernible.

3. Visual Aesthetic destruction through loss of oak trees

The Project Landscape Plan specifies that oak trees will be planted, so why destroy live oaks currently thriving on the project property?

4. Noise is partially mitigated via project landscaping plans

To create a "sound barrier," as well as an "aesthetics barrier," 65'-80' tall trees are proposed to be planted in violation of P.G.&E. and State Regulation Codes required for planting trees near high-voltage lines, which currently run along Canal Street within the Project Property. The FEIR states the "power lines would be screened from view" and shows a depiction of the aforementioned trees within the power lines.

5. Potential Fire Hazard

A fire disaster equal to or worse than the 49'er fire exists due to the 3 power poles along Canal Street. The FEIR states winds are primarily from the South and Southwest. If the proposed Project Landscape Plan is allowed to be planted as currently designed, in direct violation with planting codes within high-voltage lines, and a fire is sparked, several adjacent neighborhoods will be at serious risk.

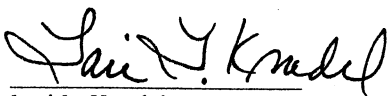
6. Request to underground 3 power poles along Canal Street

To eliminate concerns #4 and #5 above.

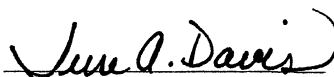
7. Discovery of a Placer County Redevelopment Agency (PCRA) Memorandum dated September, 2008 stating a Socio-Economic and Urban Decay Study would be funded by the PCRD.

The PCRA funded a study in the amount of approximately \$54,000 to evaluate the impacts of 155,000 sq. ft. retail / grocery center with fueling station on the 18.62 acre parcel referred to for this project. The study was conducted by the Economics Research Associates (ERA) and used as a reference to prepare the DEIR and FEIR. Placer County Planning Commission reassured us all studies done on the project were paid by the Developer.

Thank you for considering our comments and concerns to the FEIR.



Lari L. Knedel, BSN, RN
13180 Erin Drive
Auburn, CA 95603
530-888-6465



Terre A. Davis, BS, Accounting
13180 Erin Drive
Auburn, CA 95603
530-888-6465

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JUN 22 2010

ENVIRONMENTAL COORDINATION SERVICES

2060 Bandos Lane
Auburn, CA 95603
June 21, 2010

RE; BOHEMIA RETAIL PROJECT

Environmental Coordination Services
Community Development Resource Agency
3091 County Center Drive, Suite 190
Auburn, Ca 95602

Dear Sirs,

I am not in favor of the Bohemia retail project!!!! If the plan still includes the exit next to the canal and P.G.&E, which is right into the residential tract on Canal Street!!!!!!!

Yours truly,



Donald E. Lewis
530-823-9270

367
ECS

2060 Bandos Lane
Auburn, CA 95603
June 21, 2010

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JUN 22 2010

RE; BOHEMIA RETAIL PROJECT

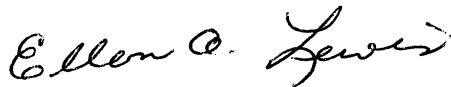
ENVIRONMENTAL COORDINATION SERVICES

Environmental Coordination Services
Community Development Resource Agency
3091 County Center Drive, Suite 190
Auburn, Ca 95602

Dear Sirs,

I am not in favor of the Bohemia retail project!!!! If the plan still includes the exit next to the canal and P.G.&E, which is right into the residential tract on Canal Street!!!!!!

Yours truly,



Ellen A. Lewis
530-823-9270

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ECS

ALLIANCE for the PROTECTION of the AUBURN COMMUNITY ENVIRONMENT
P.O. BOX 4951 AUBURN, CALIFORNIA 95604-4951 www.APACE2010.org

Date: June 25, 2010

To: Environmental Coordination Services
Community Development Resource Agency
Subj.: Bohemia Retail Project

RECEIVED

JUN 24 2010

CDRA

The responses found in the FEIR reflect the same cavalier tactics found in the DEIR where every issue is deemed to be "*less than significant*." . It is astonishing that our planning department would produce a document of such poor quality.

Although, the number and magnitude of the FEIR inadequacies are overwhelming; I comment upon only one of the failures of the FEIR.

1.5 RECIRCULATION

A. The DEIR traffic studies for option 1 and 2 of the proposed project are bogus, as explained in comments designated as 150-13 thru 150-21 of the FEIR.

B. 15% increase in traffic will occur at the Primary Access: SR 49 / Hubert Way intersection.

C. A casual observer can attest that the intersection SR 49 / Luther Rd is a congested Disaster. Caltrans agrees.

D. A 15% increase in traffic at the already congested area of SR 49 will result in a new significant impact.

E. Text revisions of the FEIR do not provide the substantial evidence to support the claim that the 15% increase is not great enough to create significant impacts. The TIAR data presented in Appendix A of the FEIR is not sufficient information. Conclusions reached when unsupported by factual information will not suffice.

F. The DEIR and FEIR deprive the public of a meaningful opportunity for informed comment upon a substantial adverse environmental effect of the project.

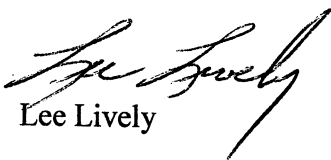
Therefore, in accordance with CEQA, the EIR is to be corrected and re-circulated.

The preceding comments are offered as a civic duty to assist in the preparation of a public document.

Now; I urge all Placer County officials, in accord with the trust placed on your office, to stand in unison in opposition to this Wal-Mart proposal. Wal-Mart is damned around the world for many good and sufficient reasons. The damage by Wal-Mart to our local economy can be predicted by the historical record of many communities similar to ours.

Do not be a part of the "unidentified occupant" pretense." Do not be deceived by the illusion of more jobs and greater revenue. Be a good neighbor.

Sincerely,



Lee Lively

CC: North Auburn Municipal Advisory Council
Placer County Board of Supervisors

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ECS

June 24, 2010

VIA EMAIL AND U.S. MAIL

Placer County Planning Commission
3091 County Center Drive Suite 140
Auburn, CA 95603

Re: Bohemia Retail Project (PEIR T20080235/State Clearinghouse # 2001042086)

Dear Commissioners:

My law firm represents the Mountain Shadows Homeowners Association ("Association"), the homeowners association for Phase Three of Country Club Estates, which is the residential neighborhood served by Canal Street adjacent to the proposed Bohemia Retail Project ("Project") near Auburn, California. As demonstrated by the Final Environmental Impact Report ("Final EIR") for the proposed Project, and explained further below, the Planning Commission should approve the No Canal Street Access Alternative because the environmental impacts associated with this alternative would be less than the proposed Project and access from State Route 49 would adequately serve the proposed Project.

On June 16, 2010, the County released the Final EIR. In response to concerns raised at the public hearing for the Draft EIR, the Final EIR includes additional evaluation of the No Canal Street Access Alternative, a project alternative that would prohibit public access from Canal Street and continue to allow emergency access from Canal Street to the proposed Project site. (Final EIR, § 1.4, p. 1-6.) The initial evaluation showed that the No Canal Street Access Alternative would result in fewer land use and noise impacts by eliminating the incompatibility between heavy traffic congestion on Canal Street and the adjacent residential neighborhood. (Final EIR, § 1.4, pp. 1-9, 1-14 to 1-15.) Additionally, the developer of the proposed Project has agreed to implement the No Canal Street Access Alternative if the County agrees to this alternative and access on State Route 49 can successfully operate. (Attachment 1, Auburn Journal, April 2, 2010, Paid Advertisement from Steve Cavolt, Column 3, ¶ 2.)

With regard to traffic impacts, the Final EIR concludes that choosing the No Canal Street Access Alternative would not result in any significant traffic impacts to State Route 49 and "impacts related to transportation and circulation under this alternative would be similar to the proposed project." (Final EIR, § 1.4, p. 1-12.) In fact, prohibiting a secondary access approach on Canal Street would

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ECS

actually result in fewer traffic impacts. As noted by both the Draft and Final EIRs, the first CEQA significance criterion for traffic impacts is:

An increase in traffic which may be substantial in relation to the existing and/or planned future year traffic load and capacity of the roadway system (i.e. **result in a substantial increase in either the number of vehicle trips**, the volume to capacity ratio on roads, or congestion at intersections).

(Draft EIR, § 8.3, p. 8-22, emphasis added; *see also* Final EIR, § 1.4, pp. 1-10 to 1-12; CEQA Guidelines Appendix G.) Under the discount club store option, there would be **904 new daily vehicle trips on Canal Street**. Under the discount superstore option, there would be **1100 new daily vehicle trips on Canal Street**. The No Canal Street Access Alternative would eliminate the negative traffic impacts that this substantial increase in daily vehicle trips would have on current users of Canal Street and the adjacent residential neighborhood served by Canal Street. In light of this additional evaluation, the Association urges the Planning Commission to approve the No Canal Street Access Alternative.

With regard to air quality impacts, the Final EIR concludes that choosing the No Canal Street Access Alternative would result in slightly greater air quality impacts due to a slight increase in carbon monoxide ("CO") emissions, but CO emissions would still remain at a less than significant level. (Final EIR, § 1.4, p. 1-13.) However, no support is provided for the conclusion that CO emissions would slightly increase due to increased congestion on State Route 49 under the No Canal Street Access Alternative. Instead, increased CO emissions from increased congestion on State Route 49 would be balanced out by a decrease in congestion at the Luther Road/Canal Street intersection under the No Canal Street Access Alternative. Further, the No Canal Street Access Alternative would reduce exposure of the adjacent residential neighborhood to air pollutants being emitted by Project-related traffic on Canal Street.

In conclusion, the Planning Commission should approve the No Canal Street Access Alternative because the No Canal Street Access Alternative has fewer environmental impacts than the proposed Project.

Very truly yours,

DOWNEY BRAND LLP



Patrick G. Mitchell

1084225.1

cc: Supervisor Holmes
Supervisor Weygandt
Dick McClellan (Mountain Shadows Homeowners Association)

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Attachment 1

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ECS

THIS IS A PAID ADVERTISEMENT

Bohemia Retail Project:

Let's get the facts straight!

There have been plenty of articles written in the Auburn Journal and letters to the editor from both sides. The developer on his own account had a town hall-style information meeting for the neighbors. And yet there is still plenty of misinformation and all kinds of false statements being made about this project. So I am going to state the "facts" for all to see.

History of the Site

The current site was operated as the Bohemia Lumber Mill, rip saws and wood chippers ran 24 hours a day for many years until 1984. In 1984 when the lumber mill closed and the property was acquired, it was rezoned for commercial shopping center use. The Fiddler Green and other residential subdivisions in the area were started in 1978 while the Bohemia Lumber Mill was in full operation. Fiddler Green and the other subdivisions were mostly built by 1984. The Bohemia property has been zoned commercial shopping center use for 28 years. The developer, Jim Costley, acquired the property 23 years ago in 1987 with the current shopping center zoning.

The site has been zoned for retail use for 28 years and has been developed and zoned for retail use in every Placer County Land Use Plan that affects this property. The land-use plans are the Placer County General Plan, the Auburn-Bowman Community Plan and the Auburn-Bowman Redevelopment Agency Plan. All of these plans had dozens of public hearings that discussed the use and zoning of the Bohemia property.

The Auburn-Bowman Plan was adopted in 1994 and had many public hearings that went on for years. During all of these public hearings there was never any opposition on the part of the neighbors or the neighborhood association to change the zoning of the site of the Bohemia property or the access to Canal Street.

Neighborhood / Personal Responsibility

A number of years ago I was looking at buying a house in Rocklin; there was a large vacant lot behind the house that I was going to buy. I asked my realtor what was going to happen with that vacant property and she wasn't sure, so I took it upon myself to go to the city and find out. The city said it was zoned commercial shopping center and that a fast-food chain was also looking at one of the lots. I had a choice to make, do I go ahead and buy the house knowing that there could be a shopping center built behind me or do I find something else. I made the choice to buy the house and it then became my issue if something got built, it did get built and I sold the house a few years later and made a profit.

The point being, the Bohemia property has been zoned commercial shopping center use for 28 years! It had dozens of public-land use hearings and is 18.7 acres of vacant land that fronts Canal Street with Highway 49 on the opposite side. **Personal responsibility** is at the forefront of this issue. If you are buying a house next to a large vacant piece of property such as this, it is your responsibility to investigate what could be developed there. If you already live next to a piece of property such as this and you feel strongly about the use and how it could affect you then it is your responsibility to voice your concerns at the public hearings on the land use plans during the public hearing process. The neighbors did not voice their concerns!

The developer's responsibility was to make sure the property he was buying had the correct zoning for the intended use and it did. Therefore he did his job of taking personal responsibility!

Land Use & Private Property Rights

Private property rights are the basic and essential freedoms bestowed to all Americans by the Constitution of the United States. What this means is that each private property owner, whether it be the neighbors or the developer of the commercial property, has a right to their individual property and the use thereof which is determined by the specific zoning given to each parcel by the planning commission and board of supervisors.

Jim Costley, the developer, is a private property owner and he purchased the Bohemia property 23 years ago with the shopping center zoning. Mr. Costley's property went through numerous public-land use plans over the last 28 years and not once did the zoning ever change from shopping center type of use. His private property rights are no different nor better or worse than any other private property owner in the neighboring area. Therefore

according to the zoning, land-use plans and Constitution, he has every right to develop his property just like you or I would.

Land-use plans are designed and created to manage growth in a unified way for the greater good of all in the community. The Bohemia project has the endorsement of the Placer County Contractors Association board members and thousands of people in the surrounding area. The Redevelopment Agency, the Planning Commission and Board of Supervisors over the last 26 years have created a general plan and community plan for this area which encompasses the Bohemia project. The real question now becomes do we follow the guidelines of these public policy land-use plans or do we allow land-use planning to be taken over (as proposed by some) by "mob rule" and dictate to the Planning Commission and Board of Supervisors' land-use decisions? I think we all know the answer to that question. "Mob rule" has never been the answer. Again, the zoning and land-use guidelines for this property must prevail according to the general plan, community plan and redevelopment agency plan as set forth by the Planning Commission, Board of Supervisors and private property rights as stated in the Constitution.

Neighbors say that retail should not be next to or interact with Residential Property

According to industry sources it is estimated that more than 70% of shopping centers in the U.S. and / or have direct interaction with the surrounding residential neighborhoods. A few examples are the East Cape Marketplace and Sunrise Mall in Citrus Heights, Arden Fair Mall in Sacramento and sprawling, multi-story centers. Our own Staples in Auburn shows residential property and has direct access into a residential area. Each of these and the vast majority of centers about residential property and in many cases have direct street access to the surrounding neighborhoods. History has proven that these relationships work very well. The portion of the Auburn-Bowman Community Plan (of which the Bohemia project is part of) shows that zoned commercial property about residential property in every case. (see Bohemia EIR regarding land use on page 4-4, figure 4-1).

Neighbors say that this project is a purely residential neighborhood and that is **entirely false**. The fact is approximately 74% of the Bohemia project is surrounded by industrial property, commercial property, railroad tracks and Canal Street (see Auburn-Bowman Community Plan). The actual number of homes that abut Bohemia is 10 and 2 of those just barely.

Neighbors say that the impacts of this project are too much for the area

We heard many of those same arguments when Target and Home Depot came to town. Many neighbors showed up at the hearings on these projects extremely upset and angry - sometimes violently - opposed to these projects. The Auburn Home Depot is one of the company's most successful stores. And all the doomsday predictions of traffic gridlock, accidents, death, destruction of the community and destruction of small businesses never happened!

Some have raised concerns over noise. The front of the building faces Highway 49, the back fronts Canal Street and one side faces the subdivision. There will be 6- and 8-foot architectural sound walls with an abundance of landscaping to buffer any noise from the street. Additionally, the developer has required that delivery trucks will not be allowed to sit and idle their engines while they load or unload merchandise.

Neighborhood Traffic Issues - They want Canal Street access closed and no signal at Canal and Luther

One of the first things that the developer did for the neighbors was to agree to a condition that no commercial truck traffic would be allowed onto Canal Street for any reason whatsoever in regards to this project. Other false information being talked and written about is the amount of additional vehicle traffic onto Canal Street which needs clarification as well. Under the discount membership club

scenario of the Bohemia EIR table 8.7 it states that 804 new vehicle trips on Canal Street would be created to and from the shopping center. These trips include the immediate neighbors' trips and trips from neighborhoods up Luther Road.

Another thing that the developer did was to include a traffic signal at Canal and Luther Streets even though the traffic study indicated it was not necessary. He agreed to do it because that's what the neighbors wanted at the time. Now it appears they don't want it, so the developer has agreed not to do it.

The biggest issue or seemingly the issue that has sparked the most controversy seems to be the vehicle access onto Canal Street. The question I have is, if the access onto Canal Street was such a major issue, why do we hear from not any involvement by the neighbors in all the public hearings that addressed all the issues: zoning, land use and access onto Canal Street? Again, a total lack of personal responsibility in the public hearing process. This is seemingly the biggest issue between the developer and the neighbors. Canal Street is a public street owned and maintained by Placer County. The neighbors don't own it; neither does PG&E, and like it or not, the developer has the same rights to Canal Street as the neighbors and PG&E. The neighbors drive their cars and trucks on Canal Street and so does PG&E, and that includes trucks and other large commercial vehicles. Conversely, the developer would consider the closing of Canal Street if the access on Highway 49 can operate successfully, and if Placer County agrees.

Bohemia Project - Benefits to the Community

One of the greatest benefits to the Auburn community especially in this economic climate is the creation of jobs and more jobs to local residents. According to Commerce one of the proposed users, 350 full- and part-time jobs will be created. And just like when Home Depot opened, hundreds of people will be standing in line waiting to apply for these jobs. And hundreds of construction and related jobs will also be created with the development of the Bohemia project.

The Bohemia Retail Project is a \$25-30 million dollar construction project which this community certainly needs. Why, again jobs and it keeps money in the community, almost takes tax leakage to other communities and generates over \$1.1 million dollars annually in tax revenue for Placer County. It also creates more affordable shopping opportunities thereby stretching the value of your dollar.

There are many communities, including Auburn, that have marketing efforts that say "Think Local First". Several reasons to shop local are: "re-circulate more money in the local community" and "shopping local saves consumers money on fuel costs". This project does that and more, it will reduce the environmental impact by reducing the number of vehicles that travel down I-505 and Rocklin thereby saving fuel and reducing emissions, which save the consumer time and money.

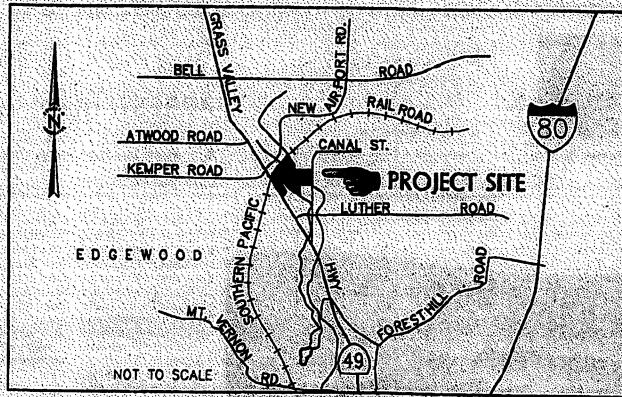
Another benefit to the community is that people will travel from other communities to the Green Valley, Nevada City, Colfax, Weimar, Lake of the Pines and other surrounding areas to shop at the Bohemia Retail Center and spend money in our community. And once they are here they will end up doing more shopping in our community: filling their gas tanks at local gas stations and stopping for lunch or dinner creating more business for the local restaurants.

The other benefit in getting the Bohemia Retail Center built is that it will act as an "anchor tenant" to help get the mostly vacant Auburn Plaza next door leased. And as Dr. Bill Kirby, Auburn City Council member said in an online comment on 2-09-10 "And don't think that Trader Joe's is off the table either" and I totally agree with Dr. Kirby. Trader Joe's had looked at the Auburn Plaza last year, but there was no anchor tenant. Therefore, with the Bohemia project, it is entirely possible that we could see Trader Joe's and other tenants taking another look at the Auburn Plaza. Obviously that would be another great benefit for local consumers and the local economy as well!

The bottom line is that the Bohemia Retail Project is rock solid in the benefits that it brings to the Auburn community. And the developer according to the zoning, land-use plans and Constitution, has every right to develop his property just like you or I would if we owned the property!

If you have questions or comments, please email me at the address shown below.

THIS AD PAID FOR BY:
Steve Cavolt
Project Coordinator
Bohemia Properties, LLC
scavolt@gmail.com



373

ECS

From: Suzanne Peterson
To: Placer County Environmental Coordination Services;
Subject: Fw: Bohemia Retail Project
Date: Monday, June 28, 2010 2:56:58 PM

Attention: Environmental Coordination Services
Community Development Resource Agency
Planning Commission
Auburn, California

RE: Bohemia Retail Project (PEIR T20080235 / State Clearinghouse #2001042086)

We oppose a big box store at the old Bohemia Lumber Mill site. We expressed our concerns previously when the project had proposed access on Canal Street but we want to reiterate that we are still opposed to a large "big box " store at this location on Hwy 49.

We would like you to address two of our concerns and would appreciate logical, truthful answers to the following;

1) Traffic impact, and 2) Protection of existing, native Oaks:

1) Traffic Impact:

Highway 49 between Nevada Street and Dry Creek Roads is already congested. Adding a Big Box store between Luther and New Airport Road would exasperate the situation not only on 49 but on New Airport Road and Luther Road. Vehicles with shoppers from up Interstate 80 (Meadow Vista to Alta) and also Foresthill will now be traveling to North Auburn to shop at this location. This section of 49 has already been widened and additional turn lanes have been added, yet the traffic flow is still slow and frustrating for drivers not only during the morning and evening commute hours, but every afternoon starting at noon. Having one sole entrance/exit on Hulbert Way to this Big Box store will make the traffic on 49 unbearable, especially during the long construction phase and then every holiday season. What feasible solution does the county have to mitigate the increased traffic that this big box store will cause? Also, please address how the County could believe that the increased air pollution due to this stop and go traffic would be acceptable for residents of this area.

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10/5

The responses in the FEIR do not adequately address these issues.

2) Protection of Existing, Native Oaks

There are several large and healthy Oak trees in the southeast corner of the Bohemia lot near the PG&E yard and Canal Street. Over the years I have seen many developments in the Foothills; they always have the orange plastic fencing around the natural outcroppings of Oak Trees, even smaller ones, to protect the Oaks from being removed or harmed during construction. I believe it is a County ordinance that native Oak trees have to be protected. Even homeowners must get special permission from the County to remove an Oak Tree from their private property after proving that the tree is a detriment to their or a neighbor's home. Why is Mr. Conkey's development an exception to this regulation? Now that the development is not going to have a public access driveway in this corner of the development, why couldn't most of these trees be saved? Mr. Conkey stated publicly that his plan calls for clear-cutting the entire lot. I realize that his plans also include planting other non-native trees that will take 10 years to mature but that is not a suitable substitution for these mature native Oaks. Mr. Conkey already was allowed to destroy several other mature Oaks during the first phase of his development along Hwy 49. It was outrageous to think he would successfully transplant those Oaks. Who was the Arborist that convinced the County Planners to "okay" that fiasco? Please explain the rationale behind allowing this developer to destroy more Oak Trees. The response in the FEIR does not adequately address this issue.

Sincerely,

Suzanne H. Peterson

Suzanne Peterson, CPA
12911 Erin Drive
Auburn, CA 95603
530.887.8707

375

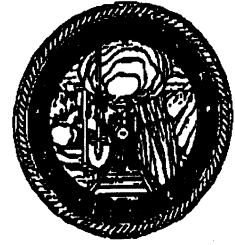
ECs

From: GLORIA
To: Placer County Environmental Coordination Services;
Subject: Bohemia
Date: Wednesday, June 16, 2010 3:30:56 PM

This project does not belong there. It is a neighborhood with families. Tell Conkey to buy the 84 Lumber property and put his project there. Thanks for listening, Gloria Stallman, 12164 Laurel Dr, Auburn--Woodside Village MHP

3/2/6

ECS



County of Placer
NORTH AUBURN MUNICIPAL ADVISORY COUNCIL
P. O. Box 6983
Auburn, CA 95604
County Contact: Administrative Aide (530) 889-4010

June 30, 2010

Placer County Planning Commission
3091 County Center Drive #140
Auburn, CA 95603

Re: Bohemia Project

Dear Commissioners:

At the June 29, 2010 North Auburn Municipal Advisory Council meeting, the members voted to recommend approval for the Bohemia Project as presented by County Staff. Vote: 4 support/1 opposed/2 absent.

Sincerely,

A handwritten signature in black ink, appearing to read "Greg Wilbur", is written over a horizontal line.

Greg Wilbur
Chair

cc: Placer County Board of Supervisors
Michael Johnson, Director, Community Development Resource Agency
Gerry Haas, Placer County Planner